

TOWN OF VICTOR ZONING BOARD OF APPEALS, January 20, 2026

A regular meeting of the Town of Victor Zoning Board of Appeals was held on January 20, 2026, at 7:00 p.m.

PRESENT: Michael Reinhardt, Chairman, Lya Theodoratos, Matt Oates, Patrick Coates, Larry St. Cyr

OTHERS: Morgan Todd, FL Gorman, Felipe Melo-Serano, Nadia Santiago, Kurt Engebrecht, David Cox, Susan Forester DiMartino, Elizabeth DiMartino, Saphire Teeter, Chad Flansberg, Mr. Wech, Glenn Piper, Cody Allen, Melissa Allen, Wendy Santmyer, Adam Ryczek, Victor Code Enforcement; Suzy Mandrino, Town of Victor; Amber Bolton, ZBA secretary

Chairman Reinhardt called the January 20, 2026, 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 the 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 the 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 Patrick Coates, seconded by Matt Oates:

RESOLVED, that the minutes of the meeting held on December 1, 2025, BE APPROVED.

Adopted: Ayes 5, Nays 0

Public Hearings

GOOD LIFE COLLECTIVE, 100-1020 Eastview Mall **County- EXEMPT** 26-Z-2025
Seeking approval for a Retail Cannabis Dispensary to go with Eastview Mall, the location is too close to the existing Flower City Dispensary.

Chairman Reinhardt- All right. First is the resolution review of Good Life Collective. Anyone here for that? How are you?

Mr. Gorman- Good evening. Chairman. Francis Gorman from Harris Beach. I'm here with my client, Philip Mello Enterprises, LLC, and Morgan Todd from the landlord.

Chairman Reinhardt - Great. So, I don't think we really need to go into a deep dive again. I think all we really needed to do here was make sure the resolution is sufficient and as tight as possible. That addresses all the issues. And in sum, the primary issue that we had here was even though the local law had stated one thing, that the state law superseded what the town of Victor's' local law was. And hopefully we've addressed that. Did you have an opportunity to review the resolution? Any comments,

questions, concerns about how it's written, how it's drafted?

Mr. Gorman- I had some nits, but I may have gotten those over to your town attorney a little late. And then there was a new case that came out at the end of December that supports the case law that we provided earlier.

Chairman Reinhardt - I don't have any communication from our town attorney, so let's walk through your thoughts and see if we can all get on the same page.

Mr. Gorman- Sure.

Chairman Reinhardt - Let me just. Hold on one second.

Mr. Gorman- Yeah. Just. In the first paragraph, it talks about the applicant being Philippe Melo. And I just inserted. It's actually Philippe Melo Enterprises, LLC. Db, Good Life Collective.

Chairman Reinhardt - Just waiting for Amber. Just. She's jotting the notes. Okay, we're good. What's next?

Mr. Gorman- The justification for the second part of the five-factor test. The benefits sought by the applicant can and cannot be achieved by some method feasible for the applicant to pursue other than the area variance.

Chairman Reinhardt - This is one B you're looking at.

Mr. Gorman- This is one B? Yes.

Chairman Reinhardt - Okay, go ahead. I mean, it's all accurate, but one of the cases that was cited was actually appealed to the appellate department and was sustained on appeal. And then There was a case. It was handed down on December, like 24th, 2025. I mean, so it's. I mean, but it's fine. I mean, it was, you know, that was fine. It's just. It's more cases since our last meeting that have come out in support of our position.

Chairman Reinhardt - The case that you're referring to is. Was a. The. Well, let's. Let me back up the town. Riverhead case.

Mr. Gorman- Yes, Mr. Chairman, if you want, I can. I have a red line.

Chairman Reinhardt -Great. There we go. All right. Is this our copy or do you want.

Mr. Gorman- You can have that copy.

Chairman Reinhardt - Okay, great. So that's going to make Amber's job, I think, a little bit easier, citing all these cases. Great. All right, we can. So, for the board's knowledge here.

Ms. Theodoratos- it's. Just like an additional case.

Mr. Gorman- Yes, it does.

Chairman Reinhardt - And they're accurate citations to the previously cited case.

Mr. Oates- I'm good.

Chairman Reinhardt - Okay. All right, continue.

Mr. Gorman- And then I think that the distance between the entrances of the stores is Instead of like 2100, it's actually 2,142ft.

Chairman Reinhardt - Oh, got it. That would be in section C on.

Mr. St. Cyr- The third page at the top.

Chairman Reinhardt - Right. And the justification. So, you'd like it to be 2,142ft.

Mr. Gorman- Correct. And there's a few other you have blue lines. Is the accurate name of the company,

Mr. Gorman- the applicant? Yes.

Chairman Reinhardt - Okay, great. All right, since you are saying it's okay for us to have this, let's mark this as exhibit A. We'll date it. Today is January 20th, 2026. That work for you?

Mr. Gorman- Yes.

Chairman Reinhardt - Amber, we're all set. All right, Anything else?

Mr. Gorman- That is it. All right. Does the board have any comments, questions, concerns about the resolution as amended by the applicant's attorney?

Mr. St. Cyr- No.

Chairman Reinhardt - All right, we're all set? All set. Okay.

Ms. Bolton-The only thing I have is it still says can / cannot ...

Chairman Reinhardt -Oh. Right. Let's fix that. So, let's go back into justification 1b. And I think it's best to put then

1B.) The benefits sought by the applicant cannot be achieved by some method.

Chairman Reinhardt - Satisfactory.

Mr. Gorman- Yes.

Chairman Reinhardt - All right. And then to ...

1C.) is not substantial.

1D.) will not have an adverse effect or impact.

And then E is, It is not self-created.

Chairman Reinhardt- And I think there is. If I'm looking at that same page just beneath it looks like it's paragraph two, there is a subsection A and I. That might just be a stray mark. So, let's. Let's take that out. All right. Any other comments, concerns from the board? Yes.

Mr. St. Cyr- go ahead. I may have missed this. When you do that, we're changing the name under decision also to the. To the legal name of the applicant.

Chairman Reinhardt - Yep. We have that in the draft that the attorney has provided for us. You want to take a peek at it?

Mr. St. Cyr- Nope.

Chairman Reinhardt - Okay.

Mr. St. Cyr- I just. I just couldn't remember if we did that one or not.

Chairman Reinhardt - Okay, we're good. Anything else? I'm going to ask it for formality. Anybody from the audience public want to speak for. Against the application? All right. Good hearing. None. I would entertain a motion for approval.

*On a motion made by Larry St. Cyr and seconded by Patrick Coates
the application was APPROVED.*

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

<i>Michael Reinhardt</i>	<i>AYE</i>
<i>Lya Theodoratos</i>	<i>AYE</i>
<i>Matt Oates</i>	<i>AYE</i>
<i>Patrick Coates</i>	<i>AYE</i>
<i>Larry St. Cyr</i>	<i>AYE</i>

Results 5 Ayes, 0 Nays

Chairman Reinhardt - Carried. Thanks so much.

Mr. Gorman- Thank you very much.

Chairman Reinhardt - Appreciate your patience. Thank you.

Mr. Gorman- Appreciate your time.

The applicant is seeking an area variance to operate a kennel on less than 2 acres, as well as install a fence forward of the frontline of the principal structure.

Chairman Reinhardt - Okay, we're good so far. All right. FLX Dog. How are you?

Mr. Wech- I'm well, thank you. Good evening. Happy New Year.

Chairman Reinhardt - Just for a quick review, for the board's knowledge, we met in December. I.

Mr. Wech- We did ...

Chairman Reinhardt - don't have the date off the top of my head, but we met in December with Adam and Keith and had a casual conversation. The primary goal, what we were trying to figure out is what does that lease agreement look like?

Mr. Wech- right.

Chairman Reinhardt - Suzy, could you pull up the aerial of FLX Dog so that we're on the same page? Yep. No, that was fine. So, the. This is. I think we're in agreement, a very unique parcel.

Mr. Wech- Yes.

Chairman Reinhardt - What is in yellow is one building. The building to the right is separate, and those are two separate tax ID numbers. And then there's a third, which is the parking lot area.

Mr. Wech- Correct.

Chairman Reinhardt - And our line of questioning that we had in previous meetings was what kind of agreement, formal agreement, does your company have with the parking lot? Because right now you're on.

Mr. Wech- Yes.

Chairman Reinhardt- It's a third of an acre of use, and you need two acres. And what we're looking for is if you had a formal agreement that says, yes, you can use that property. I think that puts a different light into what we would need to look at. And I think you provided that information for us. There is a lease agreement. You are permitted to use it, and for whatever reason why they decided to do it that way, it's not quite your problem. What we need is the agreement that you provided for us.

Mr. Wech- Yes.

Chairman Reinhardt - There's also. I think it's January 7, 2026. The owner of that parcel, the parking lot area, has no objection ...

Mr. Wech- correct.

Chairman Reinhardt - to FLX Dog using that property in the operation of the a day school kennel services. They indicated this would be Patricia McMillan.

Mr. Wech- Yes. And that would give us a total of four acres.

Chairman Reinhardt - Yeah. Yep. All right. So, with that, anything you want to add before...

Mr. Wech- I do. Actually, there's a Lot I want to add, but I'll cut it down in the essence of time.

Chairman Reinhardt - Oh, it's important.

Mr. Wech- We've done a lot since the last meeting. Not necessarily inside the building, which I did include some pictures so you guys can just kind of see what we've done inside and what a dog training facility actually looks like or should look like. What else we've done is we had our open house, invited the community, and we are very proud at how many people from the community came, showed up, and actually supported us. We had over 250 people come through. We did Christmas photos with their dogs and with their children, provided it all free of charge, of course, so that we can and kind of get people walking through to see exactly what it is we're doing. Something else that we've done is we hooked up with 4H, their dog Focus group, brought in group of children, kind of teach them what we do and different things that you could do with your dogs. Not necessarily on the fitness side of it, but just career choices, dog trainers. You know, everyone doesn't have to be a veterinarian. There's a lot of other things you could do within the dog community. We brought in a group of folks from Wayne Finger Lakes BOCES for a career day for their animal services program. It was very well attended. They were thrilled. They actually reached out to other BOCES and recommended that they also come through the program. This is all free of charge. It's all for the community just to bring them in and show them what it is we're doing. Victor High School, something I found interesting. There's a group called the Harlem Wizards. I don't know if you guys know this or not, but I'm sure you've all heard of the Globetrotters. It's the Globetrotters farm team. And what they do is you can sponsor them to come in and play your like your local high school teams, which we did. So, we were a sponsor of that. It actually just took place Thursday of last week and it was fantastic. Pretty cool to watch, pretty cool to see. And the community really rallied around it and they loved it. Something else too is we have a. Our very first radio advertising that's going to be actually tomorrow and pretty excited about that. It's a 22nd spot. I did bring it with me, but I won't play it unless you absolutely insist. But it's just pretty much says, you know, that what we do is dog fitness with folks as well. Teach them how to handle their dogs, introduce them to different games they could do with their dogs. And just the more time you spend with your dog, the better it's going to be for both you and your animal. And that's kind of what we're doing. So, what we're looking for is our dog day school. I myself don't like to call it a kennel. I understand that's what it has to be called because we're not housing anybody overnight. Trust me, that's not something we want to do or ever will want to do. But we do like to bring the dogs in and they could spend a couple hours with us. They could spend a day with us, whatever it is. And hopefully it's a benefit to their owners as well. That's why. Why they bring them. So that's kind of just a little bit, in a nutshell, what we've done since the last meeting. And like I said, it's. We're very community oriented and so far we've been welcome with open arms.

Chairman Reinhardt - Super, thanks.

Mr. Wech- Thank you.

Chairman Reinhardt - Want to start? You want me to go that way?

Mr. Coates- No, I can ...

Chairman Reinhardt - go ahead.

Mr. Coates- I actually am ultimately. Okay. The question I have is just confirming that fence. It's going to be on the.

Mr. Wech- Let's scratch the fence. There's no. There's really no need for us to have a fence. What it is, is we thought it would be a great addition to the property, but our dogs do not. The dogs that we bring in, they do not go outside by themselves. They're not off leash ever, even within the building. A lot of times they're on leash. Depending what type of training they're having. If they are able to be off leash, they are. The only time they go outside is when they're on leash to potty, go to the. Other than that. That's it. So as far as the fence goes, we could scratch that.

Mr. Coates- Okay. Well, yeah. My only question was, is it on the parcel that you're renting from? But if it's.

Mr. Wech- It would have been. Yes, it would have been on a grass portion. Yep. That's where our entrance is.

Mr. Coates- Okay.

Mr. Wech- But we honestly found that there's no need for it because even we're not doing the. The dog school. Dog day school now yet. But even the other dogs that we do have coming in for sports and stuff never is a dog off leash. So, there's really no need for a fence.

Mr. Coates- Okay, well, then I'm. I don't have any other questions.

Chairman Reinhardt - Okay. Lya.

Ms. Theodoratos- And. And that was one of my questions about the. The fence and the fenced area. So. So that's out. What are your hours of operation?

Mr. Wech- If I had to actually put hours on it, I would say probably 6 in the morning till 8, 8:30 at night. Now there, you know, there may be times where somebody hey, I have to be in early. Could you guys be there at 5:45 or something like that. So, to be perfectly honest though, it's usually 6 to 8.

Ms. Theodoratos- Okay. And just bear with me a second.

Mr. Wech- Please take your time ...

Ms. Theodoratos- I just want to see my notes from last time. So. And as you said, you won't have any dogs overnight. Just if people want to bring them in for an hour or two or all day to train. Because you're going to be doing training in there.

Mr. Wech- Yes.

Ms. Theodoratos- You know you as the.

Mr. Wech- Yes.

Ms. Theodoratos- As the owner of FLX Dog, you will be training them.

Mr. Wech- Yes. My wife is a certified trainer. We also have a certified behavioralist on staff for any dogs you know that might have issues if they're scared or you know, if they're really don't like to be around other animals. Something like that. We do have professionals that are on staff right now. They're part time. Hopefully, they will move to full time. But. Yes. So never are they alone. Never. We don't even leave them in there to run to the store and get a cup of coffee. It's. It's. We do not do that. No.

Ms. Theodoratos- Okay. Okay. That. That's all I have for now.

Mr. Wech- Great. Thank you.

Chairman Reinhardt- Larry.

Mr. St. Cyr- Mr. Chairman, I'm having a difficulty trying to find the document that you were referring to from the people who own the four acres.

Mr. Wech- I. I brought copies. If I could approach, I'd be more than happy to give you one.

Chairman Reinhardt -Probably be easier for me digging them out.

Mr. Wech- Okay.

Mr. St. Cyr- Was it in the packet?

Ms. Bolton- It's on the side. So it wasn't in your packet. It was set aside.

Mr. St. Cyr- That side.

Mr. Wech- Would you like a copy?

Mr. St. Cyr- Please. So, this basically is not an agreement with the owner or FLX and thing. This is just.

Mr. Wech- Yes.

Mr. St. Cyr- Letter. This is not an official document of any sort.

Mr. Wech- It's. Well, it's an official agreement between us and the lady who owns the land around the building. Like was explained earlier. It's kind of a weird strange mix you have Hadlock's, paints in between. There's going to be another business and then we are on the end. The building itself sits on 4 acres. We have full 110% access to the entire 4 acres. Without a question.

Mr. Ryczek- There's a reciprocal easement access easement. I believe you foiled a copy of. It was 70 something pages. I don't think we have that in this packet. But there is a legal document that allows the

owners of this parcel to access the building through the parking lot area.

Mr. Wech- Yes.

Mr. Ryczek- I just don't think a copy of that document, it was pretty cumbersome.

Mr. Wech- I actually have it with me...

Mr. Ryczek- there you go ...

Mr. Wech- double sided, 70 pages and I read it word for word. So. Yes.

Chairman Reinhardt - So, Larry, I think what we could do for the yours or for comfort of the board is to make it a condition that as long as that easement agreement exists, allowing FLX to or any tenant really is to use that building and access and use the parking lot, as long as that exists, then I think we can consider granting the variance. If that lease easement is nonexistent, which I don't know how that could happen, then those buildings would be landlocked.

Mr. Wech- Right?

Mr. St. Cyr- Well, they could sell. I mean the land

Chairman Reinhardt – They could. Sure, sure.

Mr. St. Cyr- And lock everybody out.

Mr. Coates- I don't think you could sell in New York State and have a landlocked parcel.

Chairman Reinhardt - Right.

Mr. Ryczek- I think the lease or the reciprocal easement also discusses the transfer of property and how it does not eliminate the easement.

Mr. St. Cyr- Okay.

Mr. Wech- thank you.

Mr. St. Cyr- Thank you. I have no questions.

Chairman Reinhardt - Right. Okay, Matt.

Mr. Oates- I'm okay with it. I don't have any issues with it.

Chairman Reinhardt- Alright. So, I got just a couple of things regarding the county planning board's comments. And it had to do with the proximity of the wetlands that are nearby. And then it led into the disposable animal waste. Did you look at that at all or ...

Mr. Wech- I did not.

Chairman Reinhardt- All right, what's your plan then for disposal of the animal waste?

Mr. Wech- We have one, two, three different reciprocals that have dog bags built into garbage cans and then that goes with us when we leave the facility? Well, not every day, of course, but yeah.

Chairman Reinhardt -All right.

Mr. Oates- so Chairman, real, real quick. Do have one question?

Chairman Reinhardt - Go ahead.

Mr. Oates- Do you have a layout for the inside number of kennels that you would actually have? How many total dogs you'd be bringing in for the day school?

Mr. Wech- We have a total of 20 kennels inside and our plan is to bring in no more than five for day school. Five dogs.

Mr. Oates-Okay.

Mr. Wech- And the reason we have 20 kennels is because we have a sport called flyball that we do, which is. I don't know if you've ever seen it, but I encourage you to Google it. It's amazing to see.

Mr. Oates-I have seen some of the videos.

Mr. Wech- If you ever want to come to the building, check it out live. It's. It's a wow factor. It really is. But anyway, at times we will have up to eight dogs in there because there's four dogs per team, two teams. So that's why we have that many kennels.

Mr. Oates- Okay. Should we include that then in the resolution limit the number of. Overall.

Chairman Reinhardt - So the number of kennels being 20 and the max, you're saying the maximum amount of dogs in any one time is five?

Mr. Wech- No, I'm saying for the day. For the day school, we're looking at five to six dogs. Yep. When we do fly ball, though, there's more dogs in there than five or six.

Chairman Reinhardt - Okay. So back to the animal waste.

Mr. Wech- Yes.

Chairman Reinhardt - If the board grants the variance that as far as the animal waste is that it will not be disposed on the property.

Mr. Wech- Absolutely not.

Chairman Reinhardt - Take it off the property.

Mr. Wech- correct.

Chairman Reinhardt - And so that should then check the box as far as any concern of any kind of contamination to wetlands, however close that they are.

Mr. Wech- Yes.

Chairman Reinhardt - And then a condition that. That reciprocal. Would you call it an easement, a reciprocal easement, or a reciprocal lease?

Mr. Ryczek- I think it's an easement.

Chairman Reinhardt - Right.

Mr. Ryczek- It's probably noted on the front page of the document that he has. I don't have it in front of me.

Chairman Reinhardt - Okay.

Mr. Oates- Is it filed with the county?

Mr. Ryczek- Yes.

Mr. Wech- Would you like it?

Chairman Reinhardt - that the reciprocal easement. Okay.

Mr. Ryczek- Reciprocal easement and operating agreement. It was filed in 1989.

Chairman Reinhardt- Okay. That reciprocal easement and operations agreement dated in 1989 is a condition to the granting. If the board decides. Granting of the area variance. Okay.

Mr. Wech- Yes.

Chairman Reinhardt - I think that's all the questions that I have. Any other questions before?

Mr. St. Cyr- I want to straighten something out. You said earlier that you didn't need the fence because all the dogs would be on leash. What do you need kennels for?

Mr. Wech- Because when they're inside, if we have more than one. One dog, we don't want them being with each other.

Mr. St. Cyr- In the kennel with a leash.

Mr. Wech- Yeah. No, they're in the kennel. Yep. Kennel. So, they're going nowhere. When they come out of the kennel, they're leashed. They go through their training. If they're by themselves, we'll take them off leash within the building, go through their training. When they're done, they go outside, do what they have to do on a leash, back into their kennel. Next dog will come out.

Mr. St. Cyr- Okay, just trying to understand because.

Mr. Wech- And there's different types of training that we do as well, because different types of dog comes in, so. Yep.

Chairman Reinhardt - Okay. Suzy, Anyone from public or against this? No, no comments. Good. Anyone from the public want to speak for. Against the application?

Mr. St. Cyr- One more question about this resolution. Can we limit it just to this company? Because I know the variance will continue. But what I don't want to necessarily happen is we approve a variance for a kennel for this unique operation and then a kennel buys it and they're already variance.

Chairman Reinhardt - I think because of what we've. This will be our third time we've met and discussed what this is about. And I think we really fine tuned to a very specific niche of what they'd like to do. If by some chance they move out. It does. It would run with the land. And if someone else wanted to come in and let's say have dogs overnight, I think we can easily say no, that's not what we granted because we specifically talked about one of the factors being there would be no overnight stays with the dog. It would be primarily a training facility. So, once it starts to look to something other than what they're asking for, I think whether we're on the board or some other board can point to it to say now, I guess pun intended, it's a different animal, different variance. I couldn't help myself.

Mr. Wech- It was good, actually.

Mr. St. Cyr- Thank you very much.

Chairman Reinhardt - Okay. You're welcome. All right, are we ready to move forward? All right, let's go through then, some criteria and justifications.

1.) *First, an undesirable change would not be produced in the character of the neighborhood or detriment to nearby properties created by the granting of an area of incident variance.*

Justification: *First, the parcels indicate there are three separate parcels in this particular area. There's one building which Hadlock's primarily has control over. And then there's another building that's a separate tax parcel which the applicant is only going to take partial domain over. And then there's a parking lot area. And we've discovered that in 1989, this parking lot area there is a reciprocal easement and operation agreement allowing the tenants of both buildings to use the parking lot. While the applicant the demise premises is about a third of an acre. If they couple that together with the parking lot, it would be in excess of 4 acres and thereby addressing the concern that the current code has of the kennels need to be on another aspect is there is community support for this. It would be used as a primary training center. There would be no overnight stays of dogs. It has been indicated that while there are 20 kennels, there is typically five to six dogs there during the day. The applicant has indicated they would be responsible for disposal of the animal waste, taking it off site and thereby protecting any wetlands that are at or about the area.*

Chairman Reinhardt - Is there anything else I missed or would like to be added to the first criteria in the justifications? All Right.

2.) Second, the benefits sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area of variance.

Justification: indicated in the first criterion justification. It is a unique piece of property. Given that there are three tax parcels and since there is an agreement, a reciprocal easement and operation agreement allowing the tenant to use the parking lot area, I can't think of any way that the applicant can pursue other than granting an area variance.

Chairman Reinhardt - Would anyone like to add anything to the second criteria?

3.) Third, the area variance is not substantial.

Justification: rationale being that everything that we said in the first justification. But I think one of the primary issues here is that there is that reciprocal easement and operation agreement.

Chairman Reinhardt - Anything to be added to the third criterion justification.

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

Justification: The primary concern that I think the board has would be the disposal of animal waste and the applicant has indicated that they would be responsible for removing the animal waste from site. Would anyone like to add anything or comment on the fourth criteria?

5.) The alleged difficulty is self-created.

Justification: but that in and of itself does not mandate a denial.

CONDITIONS:

I would propose that as a condition or conditions that the applicant must remove the animal waste within a reasonable period of time and not dispose of it on site. And that as long as that 1989 Reciprocal Easement and operation agreement is in place, that the FLX dog training facility may operate under the proposed variance.

Chairman Reinhardt - Anyone like to comment? Add.

Mr. Oates- Do we want a limit to the. 20 kennels or did they mention it in the minutes? Good enough.

Chairman Reinhardt- I don't know if that's necessary. We have. It's in the finding of facts.

Mr. Oates-That's fine then.

Chairman Reinhardt -Okay, we're good. Everyone. Good. All right. I'm going to entertain a motion for approval with the conditions laid out.

*On a motion made by Larry St. Cyr and seconded by Lya Theodoratos
the application was APPROVED.*

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

<i>Michael Reinhardt</i>	<i>AYE</i>
<i>Lya Theodoratos</i>	<i>AYE</i>
<i>Matt Oates</i>	<i>AYE</i>
<i>Larry St. Cyr</i>	<i>AYE</i>
<i>Patrick Coates</i>	<i>AYE</i>

Results: 5 Ayes, 0 Nays

Chairman Reinhardt- Carried. Thanks so much for your time and patience.

Mr. Wech- Thank you.

Chairman Reinhardt - Good night. Okay.

PHOENIX MILLS, 100-410 Phoenix Mills Plaza

25-Z-2025

Seeking an amendment to the variance granted on December 2, 2024, to allow a pergola forward of the frontline of the principal building. The request is to allow lighting in the pergola.

Chairman Reinhardt - All right. Phoenix Mills.

Mr. Flansburg- Good evening. Chad Flansburg for the applicant, Phoenix Mills. So, I have a couple of demonstratives that I thought could be helpful for the board to consider. First is a picture of the pergola with the backdrop of the plaza. I could walk that up to you if you would so like. And we also have over 200 signatures from patrons of Phoenix Mills Plaza that were there to enjoy the plaza and the restaurants there and had an opportunity to take a look at the pergola and the lighting and expressed their desire for this variance approval. I have the letter that was provided with the petition and then the signatures of these individuals. If I could bring that up.

Chairman Reinhardt - Ask you. While you're doing that, can I ask you a question about the signatures?

Mr. Flansburg-Yes.

Chairman Reinhardt -Are they residents of Victor? Wait, wait, wait. We can't do that. All right. Either you got to come up to the microphone. And only because we can't hear you and Amber can't hear you. So just.

Ms. Santmyer- I don't know. Most of them are, I think. I didn't look at every address. It's all tenants or patrons of different places in the plaza.

Chairman Reinhardt - I understand they're patrons.

Ms. Santmyer- Their addresses are all on there.

Chairman Reinhardt - Got it. Thank you. That helps. Go ahead, continue. While we're looking at this.

Mr. Flansburg- I wasn't here at the last meeting, but I understand that one of the questions posed was there was a comment that people in the. In the area, in the Victor area, like the pergola, like the lighting, and the board was looking for some support for that. So that's what we endeavored to do with putting out a letter and gathering signatures to show that one. From an objective measurement, we don't believe there's any substantial change because if it is a commercial plaza, there is lighting in the parking lot. It's low-level lighting pointed down. It doesn't affect passers. It actually reduces tripping hazard in the area. Area. So, we think from the zoning board factors that that mitigates this in supports approval. But at the same time, we did want to show that there is a community interest and support for this.

Chairman Reinhardt - All right. So, thank you. I think somebody on the board is going to ask, so I might as well just ask you address the hurdle of the original application. As it came in, there was an indication there will be no lighting or signage. And I think each one of us at some point has asked that. And now you want to. Your applicant wants to do a 180. So, if you could address that.

Mr. Flansburg- Yeah, well, I mean, the zoning official did address it. There was a violation notice. I understand the lighting was taken down. And ultimately we're here to see seek approval of that lighting. We are asking the board to consider the application on the factors. You know, absent the violation. We do believe that the lighting is of benefit. It benefits the plaza, it creates, it reduces any tripping hazard there. And it also makes it more aesthetically pleasing. Without the lighting. There is sort of a black hole. And with the lighting, and it's a very common feature in a Pergola, we believe it does benefit the plaza aesthetically. And the Patrons did express support for it.

Mr. St. Cyr- Can I go?

Chairman Reinhardt - Sure, go ahead.

Mr. St. Cyr- Tell me a couple things. When were the names gathered? If the lighting came down. If the lighting came down, when the violation was. Was done. When were the names. When did they see the lights?

Ms. Santmyer- Hi. They saw the lights on that picture. Somebody has it. I wanted them to see what it

looks like. So, I put a picture and an easel in every tenant space with the letter explaining it to the tenants, the people that are in space, and said, here, can you let your tenants or your patrons know that come in here if they like this pergola and the lights. And one. You know, and here it is. And this is what it looks like. There's no lights there. You guys have seen that there is no lights on there. I don't know if you pass by there often, but the lights were taken down as soon as you asked me to take them down. Adam, you know ...

Mr. St. Cyr- So this is all representation.

Ms. Santmyer- it's all represent. It's that picture. You. Somebody has it. Where did it go?

Mr. St. Cyr- Nobody. Nobody saw the lights.

Ms. Santmyer- Nobody saw the lights besides in that picture.

Mr. Flansburg- Yeah, that was the. The demonstrative I handed up was. Let me explain this. The board has full understanding of what it was, is that there was easels placed in the various establishments that are located in the plaza. Asking them if they supported it, what they saw, would they join in the application that we're making. So that demonstrator that's going by depicts the lights and the decorations that were there as well. And there was a cover letter that accompanied that easel and that presentation. It acknowledged that it went beyond what was approved, and it discussed the lighting and the decorations, and again, was just trying to gauge community support of that.

Mr. St. Cyr- Okay, so then you said it helps with the tripping hazards. So are the. Are individuals going to the pergola?

Mr. Flansburg- Well, you know, ultimately there is curbing there, so they should not. But you know how people are when they. Ultimately, it is a grassy area. There are shrubs there. That was part of the approvals. So, one of the. So one of the. I think one of the benefits of the lighting is it does provide further illumination of the parking and that grassy area.

Mr. St. Cyr- but without the pergola. Prior to having a pergola, there was no lighting.

Mr. Flansburg- There is no lighting. There's lighting in the parking lot. There's lighting on the plaza itself. There is a flag, so there is lighting there. So, there is a precedent of lighting being in the grassy area for that flag. Ceremonial flag, the ceremonial lighting. So, there is lighting in that area.

Mr. St. Cyr- Help me understand where you think the tripping hazard is.

Mr. Flansburg- the tripping hazard. Well, there's grass and anytime that people are walking in unilluminated area, it presents a tripping hazard.

Mr. St. Cyr- But there's still light is still there for the flag, right?

Mr. Flansburg- Yes, there is. I'm sure you've seen a dedicated light that illuminates the flag. That illumination, you know, does provide some illumination, but certainly this pergola provides more. And again, I don't think the real benefit of, of the lighting is for that feature. It's primarily aesthetic. There was a dark hole there and it just ties it together aesthetically.

Mr. St. Cyr- Okay.

Mr. Flansburg- But it does have that benefit.

Mr. St. Cyr- I would like you to answer the chairman's question. Again, knowing that what I think we were asking is we were told specifically at the first variance that there would be no lighting. Okay. And I don't think you've addressed that issue of okay, help us get from the point of reason. Part of the reason that was approved was there would be no lighting. It's in the documents. Minutes. It was promised and now we're coming back and we want something completely different. Help me with that.

Mr. Flansburg- Well, you are right. That's in the minutes. That was the promise. We're here today because ultimately there was design decisions made that put up the lights now that should not have been done without first coming back here. And for that I apologize. But that's the situation we're in. And I think that certainly there was a violation notice and there is a process in the town, if there's a. If there is some nonconforming feature for that violation process to go through and that occurred and the lights are down. We're now here to ask permission to put the lights up. And I'd ask that the board consider that on the factors for that. And ultimately what we try to show is that there is community support for this. It does enhance the appearance of the plaza. And Mr. Hendler, the operator of the plaza here, you know, his intention is to make this look good for Victor and for his business owners there. People drive by, they see it, it's appealing and he tries to draw him in for everybody. That was ultimately what the goal was. And I certainly apologize that there wasn't an application brought before doing that. That is wrong and that's why we're here to correct it.

Mr. St. Cyr- But your client was okay with just the pergola when they came, they got the variants for the pergola without the lights. Would you agree that the overwhelming community support was semi solicited? You know, I mean, obviously you went out to find it. It wasn't a whole bunch of people just walking into your client's establishment saying, oh, God, I wish we had lights here.

Mr. Flansburg- Well, in fact, they did walk into the establishment. That is what occurred.

Mr. St. Cyr- But they didn't go in specifically to tell you that they missed the lights in the pergola because they didn't know there were any lights in the pergola.

Mr. Flansburg- Well, no, they did know that because at the time, there were no lights. When they signed the petition, there was no lights. So, they knew there was no lights. The letter in the petition, as you'll read, makes clear that they went beyond their approvals. That's called out in the letter. That was part of the presentation, that they went beyond the approvals. We're going to go back to the town. We're going to try to get approvals for the lights and the decorations. So that was called out. They made those people specifically aware of that. And again, you're absolutely right to be angry, upset. It was wrong to do it the way it was done. But at the end of the day, what we're trying to accomplish is something that we feel is the best for the plaza and the look and the features of that area.

Mr. St. Cyr- One more question and. And then I'll get off the thing. Do you think that your client's business will be negatively affected because there are no lights in the pergola?

Mr. Flansburg- I do. I actually live in Victor myself. I go to Phoenix Mills quite often. I did have the opportunity to see the lights there and without. And I think it is substantially better with lights. So, my

belief is that it will be adversely impacted. I think the lights, especially in the nighttime, where I often go there with my family, I think it is, hands down, it looks much better. It's aesthetically pleasing, and I think it's often what pergola has is the lighting to give it that professional look.

Chairman Reinhardt - All right. You indicated, and it was your words, that Larry was angry. You have every right to be angry, and I don't because there is nothing else other than the minutes. And if that's in there, it's going to reflect poorly, I think, on Larry's, I think pointed. I didn't find him angry. Pointed questions, sure.

Mr. Flansburg- And I apologize for saying angry. What I meant is when a board gives a resolution and it's not followed, there's frustration created by that. I certainly understand it. The owner understands it. We've had conversations how it wasn't the right way to do things, and that's why we're here today to try to make it Right.

Chairman Reinhardt - Okay. Fair enough. Thank you. And I don't know if I got you. Are you counsel for the applicant?

Mr. Flansburg- Yes, Chad Flansburg, counsel for the for the...

Chairman Reinhardt - Thank you. All right, Lya, questions? Comments? Concerns?

Ms. Theodoratos- Okay, so this. I looked over the drawings and the signatures, and so this letter that you included there, that. That was the letter that you posted at the establishments.

Mr. Flansburg- didn't personally post, but it was posted.

Ms. Theodoratos- But your client posted. Okay, so the letter did state that you wanted to put lights in and that you received town approval to store the pergola on the front lawn and, you know, with the flower and shrub displays. But in that paragraph, nothing is stated that the approval that was granted specifically stated no lights.

Mr. Flansburg- I think it does speak in the letter that it go. That when they. It references going above and beyond.

Ms. Theodoratos- Well, it specifically doesn't say that, because I think that can. If people. If people knew it was approved specifically stating no lights. Because at the last meeting. I know you aren't here, but Larry and I both did state that we probably would have not approved it if lights were going to be installed. You know, we approved it as is. And I will say again, like I said last time, I think the pergola looks a lot nicer than I originally thought it did. So, I'm not against that.

Mr. Flansburg- If I could just respond to that. The third paragraph says we acknowledge that we went beyond the original approval by adding seasonal decorations and overhead lighting. So, I think they did specifically call that out. In addition, the patrons had the benefit of seeing it in the picture with the lighting versus what it was outside, unlit. So, I don't believe in all due respect that there was any misrepresentation by the applicant relative to getting these signatures. In fact, again, what he's trying to do is make things right. He's trying to get the approval the right way this time, and that's what we're here for. And again, there's 200 signatures that have said, yeah, it looks good. And certainly, there can be subjective disagreement on whether lighting is good or bad. But I think on the record here, there is

substantial input that it does look nice.

Ms. Theodoratos- Well, now that you brought up the signatures, and I'll get back to this letter. I'm very good at math. I looked at every page when Larry was talking. I would say about a quarter of the signatures have no address, and then half of the other ones that have an address are not in Victor. And if I went to count all of them, I'm not going to do it now. But I can say my Number's going to be pretty close because I looked at that. So that.

Mr. St. Cyr- Yeah, 30 of them actually said Victor. 30 out of 200.

Ms. Theodoratos- Out of 200. Okay.

Mr. St. Cyr- Granted, there's a bunch that don't have the town in them, but only 30 of the 200 are from Victor.

Mr. Flansburg- Fair enough. Again, the intent was to show that there is community support. The people that go to Phoenix Mills Plaza are typically from the Victor Farmington area. Does that mean people from Canandaigua or Brockport or Spencerport or East Rochester go there? Of course they do. But we all know we all live in this community. The primary patrons of that establishment are the Victor Farmington area. So, again, there's no intent to make any representations here. We tried to gather those signatures to meet the board's question of whether there was community support for this.

Mr. St. Cyr- And I'm not challenging that. I'm just trying to get the facts out. You said you have 200 signatures. Only 30 of those signatures say Victor. This is the Town of Victor's Zoning Board of Appeals, not the Town of Farmington's Board of Appeals. We're talking about Victor. Okay. I just. I'm. You know, I understand. I just want to make sure that it says in the. In the minutes that even though you have 200, only 30 of them could said Victor.

Mr. Flansburg- Thank you.

Ms. Santmyer- Excuse me. May I say something? You know, everybody knows who I am. Wendy. I believe at the last meeting, you told me, bring people or find out who likes this. Because I said, people like the lights, and you said, find the people. You didn't say, find the people from Victor. You just said, find the people that like the lights. And I said, okay. So, I tried to figure out the easiest way to get the word out there. Show people what it looked like. Show people what we were trying to do. So, I set things in every tenants, and of course, all tenants couldn't be here. But you're welcome to talk to the tenants or I can have them write a letter that they were. They did have those papers and those signatures, their places. Some people got a lot of signatures; some people didn't get as much. And, yes, not everybody is from Victor on there. And unfortunately, at the beginning, I didn't know that the address needed to be on there. So, I said, if they put their address, it's okay. And then I thought, later, as I talked to Chad, he said, you really need to put addresses on there. So, you know, it looks very legit that these are the people. Some people are a little funny about giving their address. So, I said, you don't have to put your house number, but at least your street or something. So, I really tried to do what I could as best as I could.

Chairman Reinhardt - As counsel for the applicant should know that in this kind of process providing relevant information is important to go get somebody from Perinton, Canandaigua or wherever. Those really aren't relevant.

Ms. Santmyer- But I didn't ...

Chairman Reinhardt - Please let me finish. I'll let you talk. Is to provide relevant information so the board can make a decision on whether or not the character of the neighborhood is going to change. Is it substantial, all of those criteria. So, what the board is now doing is doing further questions on which of those people have relevant information to provide that it will or will not change the character of the neighborhood. That's it. We didn't go out and ask you to go find all these individuals from all over the place. Usually that's what council's for, is to guide you on what is and what isn't relevant information.

Ms. Santmyer- Well, I didn't find them from all over the place. They were patrons of the plaza. They were all at each business of the plaza. Some patrons are not from here, but they enjoy the plaza. So, I thought they're the ones to sign. But I guess I was.

Chairman Reinhardt - We're working on it. Okay, so who. Larry? I'm sorry, Lya. Do you have further questions?

Ms. Theodoratos- Still have some more. So, you stay there. Well, we established earlier there's the lighting for the flagpole at the center plaza. The individual businesses, I think you said, even though you didn't mention the individual businesses. But they have lights as well. At night.

Mr. Flansburg- It's my understanding they're lit as well.

Ms. Santmyer- The signs are lit and the front of the plaza is lit like you see here. But they go off at. I think the plaza goes off at midnight, 11 o' clock for safety and everything turns off.

Mr. Flansburg- And that would be. The pergola would have those same hours as well.

Ms. Theodoratos- Right. And the businesses, do they stay open till midnight or later than that?

Ms. Santmyer- Yeah, sometimes Otto Tomatoes is there pretty late. People get nervous when they're walking around the parking lot late at night. So, we leave a lot of the lights on until about 11 or 12.

Ms. Theodoratos- And what is Otto Tomatoes business?

Ms. Santmyer- 10:30, I think they leave ...

Ms. Theodoratos-10:30.

Ms. Santmyer- It could be. Sometimes they're there later. It depends if they have a big party.

Ms. Theodoratos- Right. But. But the. Like you said, the plaza lights, they all go off at midnight.

Ms. Santmyer- I believe it's midnight and they go on at five in the morning for the gym because it's pretty full there.

Ms. Theodoratos- Okay. So, I think it's safe to say that between the flagpole light and the few lights that are on at the different businesses, that illuminates the parking lot enough, you know, as people are walking back from the businesses to their cars. Correct?

Ms. Santmyer- Yes. And I think what he was talking about with tripping hazard was that. That.

Ms. Theodoratos- Yeah, I'm getting to that. So, for the parking lot, the lights currently there illuminate the parking lot enough for people to see. To get to their cars.

Mr. Flansburg- Yes, that's my understanding.

Ms. Theodoratos- So. And you mentioned tripping hazard, and Larry got into it. So why would people go into the grass at night? Because that. That pergola doesn't have benches. It's not for people to sit. So, what is the purpose for people to walk around?

Mr. Flansburg- Well, there's curbing, so they shouldn't be there.

Ms. Theodoratos- Right.

Mr. Flansburg- But anytime there's shrubbery or a pergola, it may cause somebody to walk near that. And one of the benefits of the overhead lighting that I read about in preparation for today is that commonly it's added to a pergola in a commercial area because it reduces tripping hazards. So that's one of the design considerations when people put together this type of an effect. One, it's visual, but two, from what I read, it just creates better illumination so people don't fall.

Ms. Theodoratos- So before the pergola, was there, was there any concern about any tripping hazard in the grassy area where the shrubs are?

Mr. Flansburg- I think in any commercial establishment, there's always concern for tripping assets. Anytime you have invited guests at your property, you have to be concerned. People not paying attention, not going into areas where they otherwise should be and falling. So that's always a consideration of an owner of any property, whether it's residential, commercial, anytime. You should always, always be mindful because you have a duty to protect your invited guests.

Ms. Theodoratos- And why wasn't there any request to put additional lighting before the pergola?

Mr. Flansburg- Well, again, that was. I believe that when the application was put together, there wasn't enough thought on adding the lighting and the enhancement that could be created with that. And unfortunately, it was done the wrong way by just putting it up and asking forgiveness later. We all know that's not the way to do things, especially in the town of Victor. But that's why we're here because we're trying to do it the right way. We want it to have that lighting, for one, the physical look and the other benefits that are being discussed.

Ms. Theodoratos- And wouldn't lighting, Putting lighting on the pergola possibly attract people to go to that pergola? You know, for whatever reason, even just to get close, you know, because it is pretty, you know, I like the pergola, but just to go and see, you know, what's around it. And that can, you know, that can result in, you know, liability, you know, people going there that shouldn't. Maybe somebody trips over something or goes in there and. And trips over, you know, whatever flowers and shrubs are there.

Mr. Flansburg- Yeah. So, I didn't read anything saying that lighting creates an attractive nuisance. And I think that it's just the opposite, that actually lighting prevents something from being an attractive nuisance. The pergola and the shrubbery itself could create a condition where it causes somebody to go

over there. Like you said, you like the look of it. It may cause you to go over there to look. So again, I think what I read is that one of the benefits of the lighting and why the architectural and landscaping people want it lit up is that it addresses that issue.

Ms. Theodoratos- Okay. I think that's it for now.

Chairman Reinhardt – Matt?

Mr. Oates- Yeah. So, my first question is the variance we're granting is because of the condition on the previous variance and not something else from the code about the lighting specifically. I know you said there's other sections, but there's no other. Nothing else.

Mr. Ryczek- Right now this application is to amend the previous granted variants to allow lighting in the pergola and then the other lighting code may apply, depending on how it is lit. And when you're discussing hours of operation, it would be prohibited by the code outside of hours of operation. So, if you wanted to leave them. On all night, you would need another variance. And then there's a section of code that talks about if you're beyond a certain time frame, it allows for a certain time frame for temporary or seasonal lighting. And once you're outside of that time frame, it becomes like decorative lighting. And if you're going to do it for more than 40 days, you're supposed to have approval from the planning board. So that's something to consider.

Mr. St. Cyr- At the time of the variance, we specifically said no lighting because of the possibility that we'd have to address other issues in the lighting.

Mr. Oates- Understood. I'm just trying to understand right now what we're addressing is the condition from the previous. Okay, all right, so there's no other variances then from the light lighting code that's being asked for. Okay, we had talked last time. Is that like there's no other variances right now? Something else. Okay, so we had discussed last time the lights were going to be white in color.

Mr. Flansburg- Yes.

Mr. Oates- And.

Mr. Flansburg- well.

Mr. Oates- And they weren't Going to be flashing.

Mr. Flansburg- They don't flash?

Ms. Santmyer-No.

Mr. Flansburg- No, they do not flash. And you can make that a condition.

Mr. Oates- And then the hours were going to match, basically the operating hours of center. Okay.

Mr. Flansburg- Yes.

Mr. Oates- I was not on the board when the original variance was granted. I understand. We have the code that has the accessory structures. That's not allowed in front of the building, which covers a wide

range of items. As a resident of Victor, I've been here five years. I came from the city. I drive up and down 96 all the time. My personal opinion is I think we should try to do their best to encourage businesses to make their properties look better, to do architectural enhancements, to do things to drive business, make the gateway. So, in my opinion, I'm okay with what you guys did with the pergola. I've been out there many times looking at it. I think it looks really nice. And I don't have any issues with the lighting being that it's white, it's not flashing, it's not going to be colored, and then it's going to be matching the hour. So, I don't have anything else.

Mr. Flansburg- Thank you.

Mr. Ryczek- You're nodding, but you understand.

Ms. Santmyer- Oh, yeah, I understand what he said.

Mr. Ryczek- What he's saying is, though, like, so. If at Christmas time.

Ms. Santmyer- no flashing lights. No colored lights.

Mr. Ryczek- Never going to have flashing lights.

Ms. Santmyer- No colored lights.

Mr. Ryczek- Okay.

Ms. Santmyer- Only the lights that are up there.

Mr. Ryczek- Okay.

Chairman Reinhardt- Patrick?

Mr. Coates- I think Matt asked and addressed. I'm in a similar spot. I wasn't on the board previously. I'm looking at one justification, and I'm. Having a hard time finding, like, the. Real economic or safety benefit. But I'm also sitting here having a hard time finding an offsetting detriment to that. So, admittedly, I'm where Matt is probably. In his summary comments there, so I don't have any further questions. I just am struggling to find the. Balance between a benefit and a detriment. And I'm not there.

Chairman Reinhardt - Okay. The struggle that I have is this is a line my dad used to tell me, mean what you say, say what you mean originally, if I'm not mistaken. Correct me if I'm wrong. No lights, just shrubs. There'd be an aesthetic bench there. No one would sit there. But when I see these pictures like this, there's pumpkins and skeletons and all kinds of things, decorations, that. What concerns me is if we keep saying one thing, no lights, just aesthetics, just for looks, and then the target gets moved, and then maybe the board's going to say, okay, lights, and then there's lights that are approved and then something else changes and something else changes. When are you going to start moving the target would be my concern.

Mr. Flansburg- Yeah, let me try to address that. I'll represent to you after we're done here. I'll have a conversation with the owner saying that if he's going to go beyond what was granted here, obviously

this is a real gift to him. He, you know, he'll get the message. But if he does that, he has to come before this board to get approval. He has to do it what we said the right way.

Chairman Reinhardt - All the decorations all year long. What I'm trying to get my arms around is you said one thing and it was just supposed to be some shrubs and some flowers. Is that going to stop?

Mr. Flansburg- It is going to stop. And if there's a need to make any further change will come before the board. We'll do it the right way.

Chairman Reinhardt - The other part, as I see it, is one of the documents that you gave us. It is a 10 by 10 looks like a netting of 270 lumens. Net lights. How can 270 lumens give any kind of benefit to avoid tripping hazards? There's really not a lot of light. And the way that this picture looks like all of that lighting, that in my eyes is not from the pergola, it's from the parking lot lights and adding any more lighting. The town already has a code regarding light pollution. Which way is it? I suppose, is it necessary for tripping hazards? And I understand the attractive nuisance piece. I don't want to go down there because if you start saying that then you're on notice that there's a potential problem and putting 270 lumens in that area is not going to solve the problem.

Mr. Flansburg- Yes. So let me. Primarily, the benefit of the lighting is the aesthetic look. And we've heard two board members talk, and me as well, a resident of Victor that travels down in 96 quite often and actually frequents the establishments there. It just looks good. It drives business. Hey, the lights are on. Hey, that place looks great. Pergola. Must be some Italian stuff going on in there. Oh, there's Otto Tomatoes. We go there. It just drives business. That was the primary benefit of it. Does it have some secondary benefits? Yeah, it creates some additional illumination. Is it an abundant. Are there floodlights? No, they're not. They don't want them floodlights because then we have. We're talking about the light pollution effect of that. But ultimately, if we read about pergola and one of the reasons that people put these Lighting, the lighting on it, it's twofold. It's aesthetic, and it is also to create better illumination. And I think that is the benefits of what's trying to be achieved here. The owner is trying to improve his property for the benefit of the town, its tenants, and everybody else.

Chairman Reinhardt - You foresee any variances within the. From the owner within the next 12 months regarding anything? All right. There is more coming, isn't there? Okay.

Ms. Santmyer- No, no, no.

Chairman Reinhardt - There's already a lot of variances. Correct me if I'm wrong.

Ms. Santmyer- I don't know if it's a variance.

Chairman Reinhardt -Let me finish. There's already multiple variances on that property. Is that not true? And it has to do with the sheds in the backyard. Correct.

Ms. Santmyer- Mm.

Chairman Reinhardt - And now we got a variance on the front yard. And now. Thanks for.

Ms. Santmyer- Well, I'm going to be honest. There is another one, and I would assume it's a variance because we are interested in doing something for Otto Tomatoes in the back. Yes, but it's in the back.

But yes. And we would bring it to you the right way and going through the right channels.

Mr. Flansburg- And Phoenix Mills, you know, it has a long history in Victor. It may have numerous variances, but, I mean, it has been here for quite some time.

Mr. St. Cyr- Will the pergola go back to what was originally promised? Except for the lights? I mean, all the skeletons and everything are going to disappear.

Mr. Flansburg- Currently, there is no skeleton there. The decorations ...

Ms. Santmyer- Just the chest is the only thing out there, I believe.

Mr. St. Cyr- which wasn't part of the original. I mean, obviously it was shrubs, the pergola flowers.

Ms. Santmyer- If you want to take the deck, no decorations, no chest, that's fine.

Chairman Reinhardt - We're not.

Ms. Theodoratos- It's not us.

Chairman Reinhardt - What is it that you want?

Ms. Santmyer- No, that's fine. If you're saying no, that you don't want them. Yes. You know.

Ms. Theodoratos- we're not saying no today. It was in the original variance that was granted December of 2024.

Ms. Santmyer- Right.

Mr. Flansburg- So what we're seeking approval for is the lighting today.

Chairman Reinhardt - A 10 by 10, 270 lumen gazebo net lights specifically. Right. I'm sorry to be. We're going to try and keep this as tight as we possibly can because quite honestly, it gets a little concerning that I can't figure out exactly what you want.

Mr. Flansburg- No, we understand and we appreciate that. So, I think it makes sense to be precise and that what you have in there...

Ms. Santmyer- What I printed out is exactly what I'm doing up there.

Mr. Flansburg- Yes.

Ms. Santmyer- I've pretty much to the T. I didn't see exactly what was bought, but I'm sure I'm thinking that's exactly what was bought.

Chairman Reinhardt - Okay, so this. What I'm showing you is, I believe, what you presented. And there's a box around it with an asterisk in the box. Right. And it does say, U-Easy, LED light, outdoor fairy lights, chandelier, 270 lumen, gazebo net lights with eight lighting modes, which is just going to be white.

You're not flipping them all different colors.

Ms. Santmyer- No.

Chairman Reinhardt - Correct. 10 by 10. Or pergolas. We're going to mark that in a record.

Ms. Santmyer- I don't know if that's the right size. That's 10 by 10. I don't think our pergola is 10 by 10. That's the only thing.

Chairman Reinhardt - Okay, let's take a half a step back. What is it exactly that you want? I

Ms. Santmyer- don't know. The exact same. I don't know the exact size of the pergola is. Does anybody have it on the old.

Mr. Oates- It's 12 by 20.

Ms. Santmyer- Okay. So that was the size. That's the lighting up there. 12 by 20. Sorry. It fit up there perfectly when she had it up there. So, I'm assuming she cut it or made it work so it would fit the whole top at, I think of the pergola. I could measure out the top and let you know for sure what it is. It's on the top.

Mr. St. Cyr- So what was the ten by ten you gave us?

Ms. Santmyer- I didn't. It just was highlighted there. Just because I went on Amazon and found it and, I mean, I didn't click it to say I was ordering it. I just highlighted that. Showing you. I didn't realize it was. The size was wrong.

Chairman Reinhardt - For the benefit of the applicant. I think council knows that when a resolution is drafted and if. If it is approved, or for that matter, if it's disapproved for future generations, whether it's a week, a month, a year, 10 years, somebody looking at this and says, oh, I see exactly what the zoning board did. I see exactly what they approved or disapproved. Not kind of. Sort of. I kind of get. That's not how solid resolutions look. At least not from this board. Okay. Is that understood so far?

Ms. Santmyer- Yes.

Chairman Reinhardt - Okay, great. So, Suzy, anybody from the public speak for. Against this or concerns? No. Anyone from the public want to speak for. Against the application? All right, I think I know where Patrick and Matt. Larry, you got a feel for where you're leaning one way or the other before you start figuring out how to draft this thing?

Mr. St. Cyr- Yes. I'd be against it.

Chairman Reinhardt -Okay.

Ms. Theodoratos- against it.

Chairman Reinhardt - Okay. So, anything else you want to add?

Mr. Flansburg- Unless the board has any other questions? I have no further comments.

Chairman Reinhardt - I don't. I think I'm going to. And if the applicant has something that she wants to add, we can certainly talk about that.

Ms. Santmyer- No, thank you.

Chairman Reinhardt - Okay, thank you. All right. So, all that we're doing then is looking at lighting for the gazebo. And albeit that the information the applicant provided was for a 10 by 10, we're looking at a 12 by 20 net lights, white only, 270 lumens, gazebo lights that will be on during the hours of operation of businesses or business, whatever the earliest latest that they open and close.

Mr. St. Cyr- Mr. Chairman, I'd be a little bit concerned about putting the 270 lumens in

Chairman Reinhardt -because...

Mr. St. Cyr- well, if a 10 by 10 is 270, a 12 by 20 is going to be probably a lot more.

Chairman Reinhardt - Adam, can you speak to how much more lighting is with a 270? 10 by 10?

Mr. Ryczek- Every product's different. So, without seeing the specs for the specific product, I can't speak to that.

Chairman Reinhardt - And if this is granted, could there be other variances that the applicant needs that is directly related to the lighting that's on the pergola?

Mr. Ryczek- So, it gets complex. It would seem like Planning Board approval is required because you're going to have architectural, exterior lighting, and all lighting in commercial districts is supposed to be in conformance with a lighting plan. So, because she plans to light it more than three months out of the year, Planning Board approval is required. And then they'll hash out, you know, the lumens and all that stuff. And if they're not compliant with the lighting code, she would have the option to either change the lighting or get a variance.

Chairman Reinhardt - So it's possible that the board could grant the variance and the Planning Board can say, we're not going to let that happen. Is that fair to say, Adam?

Mr. Ryczek- I guess ...

Chairman Reinhardt - it could. I mean, I know you're not predicting what the planning Board's going to do, but just because a variance might be granted today, you still have to get over the hurdle of the Planning Board reviewing it and making a decision on whether or not that's acceptable to them.

Mr. Flansburg- understood.

Mr. Ryczek- Or you could choose to only illuminate it for up to three months out of the year.

Ms. Santmyer- No, I think he wants to get full approval.

Chairman Reinhardt - Okay. Anything else? Comments, Questions, concerns? All right, let's look at the criteria and justification.

1.) An undesirable change would not be produced in the character of the neighborhood or detriment to nearby properties created by the granting of an area of variance.

Chairman Reinhardt- Let me touch on one thing before I continue. All of the other things that are there besides shrubs, flowers, any decoration of any kind, excluding the lights, are going to be removed from this point forward. No Halloween, no Christmas, no treasure chest, no wheelbarrows, nothing. You said shrubs, you said flowers. It's that, correct?

Ms. Santmyer-I understand.

Chairman Reinhardt - Okay. We'll put that as a condition later on. I'll say it again. But in any event, first:

1.) An undesirable change would not be produced in the character of the neighborhood or detriment to nearby properties created by granting the area variance.

Justification: Keeping in mind that the previous approval indicated no lights, the applicant's council has provided enough information that it would be a difficult argument to present that the lighting of 270 lumens for a 12 by 20 gazebo would create an undesirable change in the character of the neighborhood or detriment to nearby properties.

Chairman Reinhardt - And I understand there are two board members that would disagree, but I have to at least present it in some way so that there is a clear cut either for or against.

Mr. Oates- I would also say since it's lighting that's lower than the plaza parking lot lights, the eye and the building lights and the hours of that they've represented, that they'll be lighting it is consistent with the plaza and it won't be on just by itself and that it's not going to be flashing and it's going to be white in color. That would also lead to not creating.

Chairman Reinhardt - Okay, you can put that in there. White lighting only, no flashing lights, and during hours of operation of the businesses. Right. Anything else? All right. Second:

2.) The benefits sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance.

Justification: Given that the prior variance indicated that no lighting would be attached to the pergola, that there's really no other way that the applicant can pursue other than a variance requesting the lighting on the gazebo as stated in the first criterion justification.

Chairman Reinhardt - Would anyone like to add or comment on the second criteria? Third:

3.) *The requested area variance is substantial.*

Justification: Largely due to the fact that the applicant and the prior variance did indicate no lighting. By asking for an amendment to the variance that specifically addresses the lighting would be considered substantial.

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

Justification: District. Let's.

Mr. Oates- I think that kind of matches what we said.

Chairman Reinhardt - Right, right. Exactly. It's going to match the justification for number one.

5.) *If the alleged difficulty is self-created.*

Chairman Reinhardt - And should this variance be approved...

CONDITIONS:

The condition would be that the lighting would be 270 lumens for a 12 by 20 structure. The hours of operation.

Mr. Oates- I don't ...

Chairman Reinhardt -What...

Mr. Oates- I don't know if we can say for the 270 because that would be the lumens on the 10 by 10. When you go to the 12 by 20 the lumens could be higher than that because there's a little bit more lighting. So, the way. I mean it would just like. I guess we could say it's the. Like you say the LED lighting. I just don't think there's a way to say that 270 lumens necessarily because that's not what. I don't believe that.

Chairman Reinhardt - I think then we need to put a number in there. What? What is a. And I'm not an electrician. So, I don't know what an estimate for a 12 by 20 similar lighting in lumens as it would be ...

Mr. Oates- Not going to necessarily just double.

Ms. Bolton- Doesn't it sound like the Planning Board could technically change that too, right, Adam?

Chairman Reinhardt - All right, so then let's put in there ...

Mr. St. Cyr- about two and a half times.

Chairman Reinhardt - And like lights. The applicant had indicated that for a 10 by 10 LED outdoor fairy chandelier lights would be 270. Then the equivalent for a 12 by 20 net lighting.

Mr. St. Cyr- Could we put in that planning. The planning board would have to determine the lumens.

Chairman Reinhardt - Sure, we can put that in. Or subject to planning boards of approval for ...

Mr. Oates- I think that's, yeah. They then look at that...

Mr. St. Cyr- because I mean there's no way we're going to be able to tell.

Chairman Reinhardt - Right. Well, that's fine. That's a good idea. Did we? We're on conditions now. So:

CONDITIONS:

the hours of operation of the white light, non-flashing lights to be during the hours of operation of the businesses located at the plaza. And the only other aesthetic pieces that are at or about the pergola would be shrubs and flowers or decorations such as skeletons, pumpkins, treasure chests, wheelbarrows and of the like.

Chairman Reinhardt - Would anyone like to add anything to the criteria justifications or the conditions to the proposed resolution?

Ms. Theodoratos- Going back to one, I think we said 270 lumens. So now that has to be taken out.

Chairman Reinhardt - Right? Right. It's subject. It's subject to planning board approval.

Mr. Coates- You need to put the color and the flashing as part of the conditions.

Chairman Reinhardt - Didn't I say that? No.

Mr. Ryczek- The lighting code prohibits flashing lights anyway.

Chairman Reinhardt - All right, these are all good questions. Anything else? Okay, very good. I would entertain a motion for approval.

*On a motion made by Matt Oates and seconded by Patrick Coates
the application was APPROVED.*

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

Michael Reinhardt AYE
Lya Theodoratos NAY
Matt Oates AYE
Larry St. Cyr NAY
Patrick Coates AYE

Results: 3 Ayes, 2 Nays

Chairman Reinhardt - Okay. All right. We have your lights. Subject to planning board approval.

Mr. Flansburg- Thank you so much for everybody's consideration.

Chairman Reinhardt - Thank you. Thanks for your patience. Do you want that or not? All right. I forgot his name. Do you want your. Your.

Ms. Santmyer- I have many copies unless...

Mr. Flansburg- you keep that for the record.

Chairman Reinhardt - All right, thanks. All right. Have a good night.

FORESTER, 7404 SR 96 **County EXEMPT**
Seeking a sprinkler waiver for a Fine Arts Gallery.

29-Z-2025

Chairman Reinhardt - Forester is next. There we go. Hi. How are you?

Ms. Forester- I am good. How are you?

Chairman Reinhardt - Good. Thanks for your patience. So, you would like a sprinkler waiver for a fine arts gallery? All right.

Ms. Forester- Yes.

Chairman Reinhardt - Okay.

Ms. Forester - That is it. My name is Susan Forster DiMartino. I am both Three Bears Property, LLC and Lissanne Fine Art, LLC. We are buying the property, owning the property, and then we will be the tenant, the gallery, the fine art. So. And yes.

Chairman Reinhardt - Okay, so you're looking for a sprinkler waiver, and you provided some information for us. So, one of the. The issues that the board looks at is what does the fire chief, the fire marshal have to say about it? Because large, in part, is the reason for the sprinkler code is for the protection of not only the people that are in the building, but also the firefighters that go in, and they want to keep as

safe as they possibly can. Did you have a chance to look at the sprinkler waiver memo that Robert Graham put together?

Ms. Forester- Was I given it? I did try to do research on the code and all the codes and what the criteria was and why, et cetera.

Chairman Reinhardt - Take a couple of minutes, read over it before we start asking you a few questions about it and give me a chance to get a drink of water.

Mr. Oates- Can I ask a quick question, more about it in general, just to. Just to.

Chairman Reinhardt - Well, let her. Let her finish. Read and then you can ask a question. Okay, thank you. All set. Go ahead, Matt.

Mr. Oates- There are two buildings on the property.

Ms. Forester- No.

Mr. Ryczek- No.

Mr. Oates- Okay because I guess I'm confused just on the resolution. The sec. The first, whereas, is referencing an existing pole barn.

Ms. Bolton- Oh, that's from an old one. My apologies.

Mr. Oates- Okay. All right. That was it then. That's. That's what confused me, was seeing that. Okay, then I'm fine.

Ms. Forester- No, and originally, we had actually not proposed a pole barn. It was just like a storage shed with no electricity, just to house, but we've decided just for space. We don't really actually need that because I'll have. I'm not going to be mowing my own lawn, so I don't have to keep my own lawnmower. But there will be no hazardous materials or gas or anything. Stored and in the studio up. The gallery itself will have. No, everything we're doing is nontoxic watercolor, you know, not. So, I'll have no kilns, no torches, no like solvents or anything of that sort, you know, anywhere on the property.

Chairman Reinhardt - No combustibles. Noncombustible.

Ms. Forester- Non combustibles. Yeah...

Chairman Reinhardt - go ahead.

Ms. Forester- No, yeah, we're not using oil paints or oil, you know, it's all non-toxic. Environmentally friendly is the goal of this, hopefully.

Ms. Theodoratos- Are you just going to display artwork or as you're saying you're going to.

Ms. Forester- It's a fine arts gallery. So, we went through the planning board approval. So essentially upstairs is a office studio and we will have a transient. We're going to have a residency program. So,

we'll have an artist that's coming from a lot of parts of the world potentially. They'll be paid to come and live, work, you know, work on a project for the month, be available for people to come, work with a few people, maybe you know, no more than four to six at a time on a specific project or workshop. But again, this is watercolor, painting, felting, things that require no equipment, no fancy stuff, you know, it's just a table and chairs. And also. So downstairs is entirely fine gallery space and then upstairs will be. But that upstairs will be. It's completely fire wrapped and separated. We will have a separate H vac system for upstairs and downstairs. There will be nothing connecting that upstairs space with the downstairs space. We are actually even reducing the footprint of the. We've removed a building that we're not replacing. Our addition is going to be kind of smaller. There's no third-floor storage, no attic storage. So, it's just the two stories. And then, and then the one addition will only be one story. There won't even be anything up above that. So, it's again very small.

Chairman Reinhardt - All right, just want to jump in quick. You provided date on December 2025, the cost of the system, a sprinkler system would be \$25,000.

Ms. Forester- That was an estimate. And I did have, I didn't bring. I did get an estimate because I got a, what they call spot cotton dot where I had a fire protection go in and they looked at, you know, and did the whole plan and.

Chairman Reinhardt - Who's they who provided you for the estimate.

Ms. Forester- Apologize for being unprepared of not having that email with the, you know, who I paid. But it was a fire protection company that that's all they do is do these systems. So, I thought I was going to have to really present the entire.

Chairman Reinhardt -You have it at home?

Ms. Forester- in the estimate. But they did not give me a complete estimate for the whole job. If I were going to have to do this, I was going to go. If I was told I was going to have to, then I was going to go back to them and get the estimate for. I just paid the thousand dollars to get the spot and that to get the plan done. And then that's what.

Chairman Reinhardt - Did they provide you with a number?

Ms. Forester- No, my architect, provided me with a ballpark estimate of what to a system of that size based on our architectural. You know.

Chairman Reinhardt – That's what I'm getting at ...

Ms. Forester- Yeah, they. That was just the. For the system, not for the water and doing the hole because we only have a 1 inch or a small intake. So that was. The other thing is that they said I was going to have to be responsible for all the way back to.

Chairman Reinhardt - Would you. It sounds like you had some communication with your architect. Could you, at your earliest convenience, touch base with your architect? Put something. It doesn't have to be elaborate handful of sentences. Then on whatever date you contacted the architect, the architect gave you an estimate of approximately \$25,000 to put the sprinkler system in and send it to Amber. So now we have it in our file that is consistent with what you're telling us that it was approximately \$25,000. Can you do that or is that a.

Ms. Forester-Yeah. I mean, I could call the fire prevention company, too, and say, hey, can you give me a quote for what that would be, too.

Chairman Reinhardt - What we're looking for is sometimes an applicant will come in and just say it's about this much money, and they kind of pull the rabbit out of the hat and it's like, I believe you. What you're telling me is true. All that we would like is something in our file that you did what you did and something that we had. If it's tomorrow, if it's later on the week, that's fine. So now it's in our file that you had the number, and it supports what you're telling us, that it's costly to put a sprinkler system in there.

Ms. Forester- Absolutely. Oh, yeah.

Chairman Reinhardt - Good. Thanks. All right, where were we? Patrick? Questions.

Mr. Coates- When the fire marshal reviewed it, did. They know that there was going to be a residential complaint component.

Mr. Ryczek- Yes.

Mr. Coates- they did. Okay. And is it going to be per. Like. Like, are you renting. You're renting it for. Just

Ms. Forester- No, not rented at all. It's the terms. It's. They termed it a transient residency. So no longer. The one person can stay for a month, but no longer than a month and nobody. It will be never rented out to anybody. That's not how it goes. This is. Again, again, they're. They're being paid to come and. Right. So, it's not.

Mr. Coates- And like one to two people at any one time, or is it just one artist?

Ms. Forester-One artist.

Mr. Coates- One artist. Okay.

Ms. Forester-Yeah, just one artist.

Mr. Coates- And no glass blowing, metal work, anything like that?

Ms. Forester- No, I love that. I know. I. I'm just kidding. I. I am in fact a glassblower, but I find it much easier to go down to Corning and. And pay for the time there where they have this incredible facilities and then just. Yeah. Finish work by painting it. And the grinding and polishing is not there is. It's like sandpaper and it's wet. So, there's no, like. It's not like woodworking where there's any sort of dust or anything and nothing goes down the drain. So those are all. Yeah, but no hot work, no kilns at this point. A few years down the road, we may change and then we'll come back. And before we obviously did anything, we'd get approval for a separate building that had, you know.

Mr. Coates- Okay, so you wouldn't. You wouldn't retrofit this building someday to. Do those hazardous activities?

Ms. Forester- No, no, because it's. Yeah, it's too difficult and it not cost effective. It's just much better to build. Build a whole new building. That's correct. And if that we do have with that property. And I believe the water comes from Rowley Road up like the main, you know, down the road once we got open, maybe we'd build, you know, do something there that had a separate building that just had kilns and, you know, that kind of thing. That was all that we could connect and we would put a sprinkler system in that. Because then if we're building it new and that's fine. That's. It makes sense because that should have, you know. But.

Mr. Coates- Okay. Okay. That was all my questions right now. Thanks, Lya, any other questions, comments?

Ms. Theodoratos- So do you. Do you know offhand the square footage of the building?

Ms. Forester- No, I should. I'm sorry, I'm not as prepared as.

Ms. Theodoratos- What were any alterations? Did you make any alterations yet to the building? You know.

Ms. Forester- no, we're actually just on hold waiting for all the. To work permits to get all the approvals before we go do anything. Yeah. Other than we had started in the beginning when we bought this, we thought we were just going to be able to do cosmetic or just inside things. And then upon Starting to. It revealed that it was moldy. You know, it was. It had to come down. So that's when we kind of just unholed. And we had spent the last year with my architects and the engineers trying to get the whole plan of what we can do. How can we do it. And then to the planning board and they've approved everything. And this is sort of the last question before we move on to do anything at all is getting this, you know, whether. Because obviously, obviously we don't want to do anything and then have to go back and put the sprinkler in.

Ms. Theodoratos- So you're going to do. Because even from the outside it looks like an older structure. So, you're going to have to do some, I would say extensive repairs. I mean, is that correct by me saying extensive? And now I'm just talking about...

Ms. Forester- new roof, new siding, new cleaning up everything, you know, and then everything was on that has been already submitted for what we're doing.

Ms. Theodoratos- And for the inside, are you going to either break down walls to make an open gallery space or just use it right now?

Ms. Forester- It's all the way it is right now, yep.

Ms. Theodoratos- Okay.

Ms. Forester- We just have to. It's just rip out the old rotten things and put. Make it nice and clean. We're putting a, you know, handicapped bathroom accessible, you know, making sure everything is to code. And.

Ms. Theodoratos- And I saw in one that one of these memos, it was I guess recommended, you know, whatever new materials you put in is using fire-rated drywall for the walls.

Ms. Forester-Yep.

Ms. Theodoratos- And then are you going to..

Ms. Forester- and the ceiling.

Ms. Theodoratos- And an alarm system like ADT you're going to have that...

Ms. Forester- Will be wired. Hardwired in. It will have a. We do have ADT there now for security. But yes, we'll have the ADT everything. Yeah. And then

Ms. Theodoratos- so are they going to recommend, you know, like how many? Because with ADT, they'll, you know, maybe just put the fire detection detector and you know, maybe two rooms. But you know, based on the size of the room or the size of the house. But are you going to ask for maybe extra even? You know because it's a gallery.

Ms. Forester- The gallery. Yeah. The gallery is really just one big room and then there's a separate. A second room. So, each room would be zoned and yeah, like.

Ms. Theodoratos- So each. Each room it's going to have.

Ms. Forester- Each room and each area will have multiple. Yeah. Hardwired as well as obviously. Well, maybe not obviously, but fire extinguishers and things within each range that for accessible for kind of dry putting fires out.

Ms. Theodoratos- And. And the upstairs is also going to have.

Ms. Forester- Oh yeah, absolutely. Yes. In every room.

Ms. Theodoratos- Every room.

Ms. Forester- Yep, every room. And then again fire extinguishers on the walls.

Ms. Theodoratos- And I understand. And even the fire marshal said, you know, because this is a small structure. And I saw statements stating, you know, because it's artwork, you can't really have a sprinkler because that's, you know, that's not feasible, you know, because that would. Cause damage

Ms. Forester- No and particularly with watercolor and is a big component. This is this whole thing. Lianne Fine Art is a legacy business or a legacy gallery. My mother was a watercolor painter internationally known in Vermont. So, she passed. And so, I am her daughter, also professional artist, but tasked to continue selling her work. So, this isn't just artists that this is. I have safe estimate, millions of dollars' worth of stock of her paintings. She has passed. So, they are. If it, you know, they're water damaged, they're gone forever and totally irreplaceable. So, the monetary value isn't even. So, you know, I would like to take every step to avoid, you know, if they go off and it's not a real fight. You know, there's all sorts of ways that it. It's damaged and my property value is not as valuable as what the content's in it. And then the insurance, if I have other people's artwork and, you know, the value of some of this work, the price points are going to be up in the 5, \$10,000 range. So that's quite a. I have to, you know, protect that. Yeah. So. So,

Ms. Theodoratos- okay.

Ms. Forester- That's why my.

Ms. Theodoratos- Yeah, that's all I have.

Chairman Reinhardt – Larry?

Mr. St. Cyr- will you be keeping the entire inventory in that room of your. Your late mother's?

Ms. Forester- We will be keeping much of it. Yeah. Yeah, much of it. So, it's. Yes. And upstairs. And because. So, we also will be having a matting and framing. So upstairs. And so, we'll be having all that stock to. Because much of her work was unfinished. It's again, watercolor that's signed. So, things will be for sale unfinished, or we will frame and mat stuff for people and things like that. So, yes, upstairs will be. Now I am going to have constructed storage cabinets or the flat files that there's the new materials that is kind of easy to get where it's fire rated up to 5,000 degrees in water. So, I can actually make and line things so I can have some of those things in an extra. Extra state space. Storage space. But yeah, that's one of the hard things about what I'm trying to do is it's not just your average stock.

Mr. St. Cyr- No other question.

Chairman Reinhardt- Matt?

Mr. Oates- So is that kind of like if you're Designing an art gallery in general. Sort of like what the industry standard recommendation would be to come up with a way to not have a water-based sprinkler system. Just more for the industry standard to avoid the damage of that. Okay.

Ms. Forester- yeah. I wish someone would invent something like that. But with the fight like a fire extinguisher stuff, you know, like it that wasn't. It was sort of like a dry.

Mr. Oates- They just say try to do whatever you can to not have sprinklers...

Ms. Forester- Yes.

Mr. Oates- based on the damage when you're designing a new art gallery. Okay, okay.

Chairman Reinhardt - Okay, we're good. Susie, anything from online, anyone from the public want to speak for against the application? Okay, so let's go over a couple of things for the criteria. First one being:

1.) An undue economic hardship.

Justification: *The applicant has indicated that the estimated cost would be approximately \$25,000. And it's indicated that at some point she's going to provide some information to Amber.*

Chairman Reinhardt - Do you have her email address regarding where that number came from, whether it's an architect or wherever you got it from. And as far as the second:

2.) The physical or legal impossibility.

Justification: I think the physical impossible possibility would be you have an art gallery, watercolors, that's nontoxic, non-hazardous, non-combustibles. You've also indicated that you're having fire rated drywall ceiling and fire-resistant flooring, hardwired ADT systems, multiple exits along with zone fire extinguishers.

Chairman Reinhardt - So I think that covers as far as the third.

3.) The impediment to the intended objectives of the section.

Justification: I think what we're again dealing with, it's the artwork, watercolors, it is property. It's valuable to you. Our understanding has been in the past with the suppression system is really for the safety of whether it be employees or really the fire fighters that go in there so that they don't get unnecessarily harmed. So, I think we've gotten all that and especially since our fire marshal has given us an indication on the January 2, 2026, letter that well, it's the better way to go. It's sounds like he's comfortable with the systems that you're setting up for proper fire protection and then...

4.) The necessity in light of other viable alternatives which meet the objectives of the code section.

Justification: That's a hard one because I think you just said, and I think rightfully so, there isn't one to have any kind of suppression system that would be triggered. All that artwork would be destroyed with that.

Chairman Reinhardt -Unless someone wants to add anything else. I think we're ready for a motion for approval to waive the sprinkler system.

Mr. St. Cyr- Chairman, I know you have it in there, but could we put the variances subject to receipt of the.

Mr. Ryczek- This is not an area of variance. This is a waiver.

Chairman Reinhardt - Just so it's a waiver. It's a waiver specific. Specific to the applicant.

Mr. St. Cyr- Okay.

Mr. Ryczek- It has nothing to do with the property. Any additional building would be subject to the same sprinkler requirement. This is specifically a waiver for that building for this intended use.

Mr. St. Cyr- No. My question really was more. Not that I don't believe you're going to send it, but I always like to have something in there that says that the waiver is subject to the actual receipt of that estimate.

Chairman Reinhardt - I don't know if we need to. I hear you. I don't know if we need to put a condition. It'd be nice to have it in our file so that we have at least in writing where she got the number from. But all the applications that we've taken on sprinkler waivers. It doesn't sound like an inconsistent number on the expense of what it would cost to get a sprinkler system installed.

Mr. St. Cyr- Fair enough.

Chairman Reinhardt - If anything, I might think it. We've seen higher.

Ms. Forester- Yeah. That was not. That was just for the. Doing the house. That was not considering having to change the whole water that I kind of was even afraid to ask for an estimate to. Like what.

Chairman Reinhardt - Understood. Okay, well, go ahead ...

Ms. Forester- because we have. To go through the woods.

Chairman Reinhardt- Okay.

*On a motion made by Larry St. Cyr and seconded by Lya Theodoratos
this application was APPROVED.*

The resolution was put to vote with the following results:

<i>Michael Reinhardt</i>	<i>AYE</i>
<i>Lya Theodoratos</i>	<i>AYE</i>
<i>Matt Oates</i>	<i>AYE</i>
<i>Larry St. Cyr</i>	<i>AYE</i>
<i>Patrick Coates</i>	<i>AYE</i>

Results: 5 Ayes, 0 Nays

Chairman Reinhardt - Very good. Good luck to you. Thanks for your patience.

Ms. Forester- Thank you very much.

BARBER, 0 Benson Road **County Class 1**

1-Z-2026

The proposed project is seeking an area variance for construction within 100' of the wetland.

Chairman Reinhardt - Barber, how are you?

Mr. Cox- I'm David Cox with Cox Engineering.

Chairman Reinhardt - Okay. Sorry.

Mr. Cox- Representing Mr. Barber.

Chairman Reinhardt - All right. You're looking for an area variance for construction within 100ft of wetland.

Mr. Cox- Correct.

Chairman Reinhardt - Okay, go ahead. Tell us what you got.

Mr. Cox- So it's an 18.2-acre property. Wetland is on the east side of the property close to Benson Road. Mr. Barber's looking to put a single-family house on it. Right now there's an existing. It's an old railroad bed. So, we'll be utilizing that for part of the driveway, which you can see to the south on the property. And then it kind of heads north along that existing railroad bed. And then someone at some point on the property kind of cleared an area that kind of goes back to where the house is. So that driveway is exactly able to go through without disturbing any trees or anything like that. It's more of a gentle grade. A lot of the other Topography on the site is more steep and heavily wooded. So really this is the way to get back there is through the path that's already there. So that's the path of least resistance and the least tree removal or earth moving and things like that. So, the property is. The house is, you know, around 500ft off the property. So, it's kind of tucked back in. It goes back over the hill a little bit. I'm not really sure that any other houses, surrounding houses would be able to see it. So, it's really kind of tucked back in there. It's a quite nice property. Like I said, It's a large 18.2-acre property. So just for a single-family house. So, we don't believe that it'll be create an undesirable change in the character of their neighborhood. Following an existing path and just putting a single-family house in. The surrounding properties are single family homes, so it's in keeping with the neighborhood. Can the benefits by that get achieved by some other method? If we were to move the driveway or the house, you know, to be 100ft away, you'd be disturbing a lot more trees, taking a lot more earth out. It would create a lot more disturbance. So, a lot more environmental disturbance, if you will. So, the plan has been designed to have the least amount of environmental impact. Is the request substantial? So, the house is approximately 37ft away from the wetland and the proposed driveway at the closest part is around 57ft. And it's just kind of one corner, corner spot. Besides that, it's, you know, the majority of the driveway, I would say probably 90% of the driveway is, you know, outside that 100-foot area. Will the proposed variance have an adverse effect on the physical environment or neighborhood or district? And as I mentioned before, the proposed design really does the best job of limiting the amount of environmental impact and disturbance to trees, woods, things like that. And whether the alleged difficulty was self-created, the topography of the site and where the trees are and all that. And the previous work that was done was not part of the owner. That is, you know, how he bought the property. So, he is wanting to use the property for how it was created or how it formed and the best way possible to limit the amount of

disturbance on the property. That's all I have.

Chairman Reinhardt- All right, I think what we're going to do is. Matt.

Mr. Oates- okay.

Chairman Reinhardt - Since you have some engineering background.

Mr. Oates- Yep.

Chairman Reinhardt - I know we've seen maps before, but why don't you start us off?

Mr. Oates- Okay. So don't disagree with that. Anything you said, but just trying to work through it all. You could have the ability to take the driveway, angle it around, avoid the wetland. You do that based on the grade; it looks like you're going to be cutting in probably about 12 to 15ft into the hill to then get the driveway. So, you're probably going to then either be putting in like 200-foot-long retaining walls 15 foot tall to just run the road in, or you're going to be literally taking out like two acres of trees to run everything back.

Mr. Cox- Correct.

Mr. Oates- Okay.

Mr. Cox- Yeah.

Mr. Oates- Which then is going to move your septic system. Probably have to push that back into the trees, rip out more trees there. Correct as well. Okay. And then with the house, it looks like you could rotate the house and just get that out of the wetland. But then that's going to kick that into that hill right there. And all of a sudden, you're in the same exact scenario where you're then basically kicking that out probably 50 to 70ft to chase that grade back, if not more.

Mr. Cox- Correct.

Mr. Oates- So really what you've done is it looks like the only real tree clearing is just around the house. The driveway follows all existing basically clear trees and a clear path.

Mr. Cox- That's correct.

Mr. Oates- Okay. He owns the property.

Mr. Cox- Yes.

Mr. Oates- Not under contract. Okay. I don't really, I completely get, get the design, get where you're going with there and trying to minimize the impacts. And as Adam said, there's in his memo as well. There's really like nowhere else you could really situate a house here. That's not going to really start to impact the land. So. Yeah, I don't, I don't really see anything, anything else from a design standpoint that you could really do to not impact more. Okay. That's all I have. I didn't.

Chairman Reinhardt – Larry, any questions, comments, concerns?

Mr. St. Cyr- Just a quick estimate off the top of your head. If you had to move 100ft away, returning it or whatever, we're talking into the hill and everything. Forget the driveway. Just the house ...

Mr. Cox- Oh, just the house.

Mr. St. Cyr- What are you talking about? Okay, talk, talk to me. And how much cost and how many trees you're taking down?

Mr. Cox- Cost? I mean, this is just ballpark. I'm probably 30,000 and probably taking down 60 trees.

Mr. St. Cyr- How old would the trees be?

Mr. Cox- There's a mix, but it's a pretty mature forest back there. So, there's definitely some bigger sized trees for sure.

Mr. St. Cyr- Okay, thanks. I'm done.

Chairman Reinhardt – Lya?

Ms. Theodoratos- Being that this is federal wetlands, have you contacted the Army Corps of Engineers?

Mr. Cox- So we did the wetland delineation and since the federal wetlands don't have a buffer requirement. So, there's no buffer requirement. So, we're not disturbing the wetland buffer. So, we don't need any permits from the.

Ms. Theodoratos- You don't need anything from them.

Mr. Cox-correct.

Ms. Theodoratos- And it was. Now, was that from the Army Corps of Engineers or.

Mr. Cox- Yeah, that's from the Army Corps.

Ms. Theodoratos- And there were no other federal agencies involved with wetlands at all? I don't remember any. Any. Because I worked for the Corps years ago, but I didn't. I didn't do this type of stuff.

Mr. Oates- I can. I can confirm. Yeah, I work with this. The federal wetlands, they wouldn't need any permits. Corps of Engineers.

Ms. Theodoratos- No. Okay. Okay. That. That was all I had. Thank you.

Mr. Cox- Thank you.

Chairman Reinhardt – Patrick?

Mr. Coates- No, you're good. I'm all set.

Chairman Reinhardt - All right. I think Larry may have touched on it, but just so we can plug in some numbers, do you have an estimate on the cost? The monetary cost it would be that if you could figure out some way to comply with the code, you know, I hear you. Trees and invasion of land, all that kind of thing. What's it going to cost to comply with the code?

Mr. Cox- Yeah. So, the driveway would probably be even more significant to get into that hill and the retaining wall. I mean, you'd probably be talking \$200,000 for that.

Chairman Reinhardt – Okay. How long you been doing this?

Mr. Cox- 20 plus 20 years.

Chairman Reinhardt- All right. I think that covered most of the things I wanted to talk about. Just for the numbers. Suzy, Anyone? No. Anyone from the public want to speak for. Against. Go ahead. Come on, run up. Tell us who you are. That's what you got.

Mr. Piper- My name is Glenn Piper, and I live immediately south of that property at 236 Benson. And so, I was just. I missed what you said. As far as. Is it the east wetland that you talked. I thought I heard you say east. Or the big pond.

Chairman Reinhardt - Wait, wait, no. Time out, time out, time out.

Mr. Piper- Okay.

Chairman Reinhardt - So it's procedure.

Mr. Piper- Yeah.

Chairman Reinhardt - We can't let that happen.

Mr. Piper- Okay.

Chairman Reinhardt - You want to ask us questions, and if we know the answer to it, then if we find it appropriate, then we can ask.

Mr. Piper-Okay.

Chairman Reinhardt - I know it sounds like it's a stigma.

Mr. Piper- It's fine.

Chairman Reinhardt -So, your question is.

Mr. Piper- After the lights, I'll follow anything.

Chairman Reinhardt - Okay. State your question again.

Mr. Piper- I thought I heard him say that the variance was for the wetlands on the east side close to Benson Road, as opposed to the larger pond on the west side.

Mr. Ryczek-I can step in Mike.

Mr. Piper- Maybe I. Maybe I was incorrect on that.

Chairman Reinhardt - Okay, go ahead. Adam can answer that.

Mr. Ryczek- So, it's actually both the house. He is looking for relief from the pond wetland. A reduction of about 27, 28ft and the driveway is the east. And that's more significant reduction, but maybe less impactful to that type of wetland. And they're looking for 43ft of relief. So, this is a local code requirement to try to preserve these, you know, these areas of interest. Doesn't seem like there would really be a negative environmental impact through our review. Plus these in front of the planning board. So that may be good meeting if you have concerns to attend because they're going to address those issues much more than the zoning board for just the variance.

Mr. Piper- Okay. Yeah, I. I went to the first planning board or the back on December, whatever it was, or January. But. So no, I agree that the. Ingress to that property that's the most logical site for it, other than coming in from the north, which would be. Problematic following that trolley grade, I think makes total sense getting back into the property. A little concerned with the. Proximity to the pond on the west, the large pond. My concerns with it are that both. Of those areas. And I don't want to sound like I'm Save the wildlife, save the. But it is a special area and. The town recognizes that. From I believe their conservation statement. I forget exactly when it was a study back in 2013 or 2014. It really is a unique area. And between those two, if you ever drive by Benson Road on a May day or an early May day and you look down in that first wetland area, you'll see hundreds, if not thousands of painted turtles and snapping turtles. And it's a real breeding ground. Both of those ponds are. I live just to the south of it and I have dozens, if not hundreds of painted turtles every June, as well as the annoying snapping turtles, turtles that come out. But it's a unique. Environment and I've. This is really neither here nor there. But a lot of wood duck boxes. To encourage the waterfowl. And so, it's a neat spot. It is a wonderful spot for a house. I think probably the main reason I feel that they're probably sliding down to the pond a little closer is for the view. And which again, my biggest concern with. That is the closer you go to. The pond, the more leveling there's going to be. There's going to be a lot of earth moved. And so, my biggest concern with that is that with any kind of consideration with it, I feel it's really critical that steps are taken to protect runoff from the pond. And I think that's a fairly large. I could see 5, 10ft, but you're getting down close Whenever you're getting that close to the pond and without a lot of structures to keep runoff from, you're going to have a lot of silt and a lot of earth moving down into that pond. And I just go by there on a May day and see the number of painted turtles. And you won't see turtles like that very many places. And I'm not. Oh, save the turtles. Save the turtles. I just want to emphasize the need to preserve that environment.

Chairman Reinhardt – Okay for expressing your concerns anyone else from the public want to speak for or against. Okay, Board, anyone? More concerns? So, I think what we have here. Anything else you want to add? So, what hearing so far is. And correct me if I'm wrong, and really, Matt, please do jump in. Or an 18.2-acre parcel of property that is with like one house on it. For that to be the best place for that house, for that size of property is remarkable. And I agree with Matt that you've done what you can to minimize the impact of tree removal. Land being moved. Minimal. It appears to be minimal impact to the wetlands, the ponds, and it just does seem to be the best location. Planning board still needs to

approve this, Adam. All right. So, it still has to go through that hoop. All right. With that in mind, let me. Glenn, was it. You weren't speaking for or against it. You had concerns. Is that fair to say? Just because we have a category in our resolution that it was held on in blank. Spoke for or against the application. I just don't know where to put you as far as other than you had concerns.

Mr. Piper- Well, I don't think it matters.

Chairman Reinhardt -Oh, but it does matter. You're part of the public.

Mr. Piper- Yeah, no, no, I know, but I mean, obviously, you know,

Chairman Reinhardt - I'm sorry, I'm sorry, to have you get up, but just so we can hear you.

Mr. Piper- I don't want to be one of those. That's not in my backyard. And so, I'm not speaking against it. I just have.

Chairman Reinhardt - I think we can put in there. You're not. You weren't for it, you're not against it. You have concerns and you've addressed them. Is that fair to say?

Mr. Piper- correct.

Chairman Reinhardt- Okay, good, good.

Mr. St. Cyr- And you would prefer that it was just a little bit further away?

Mr. Piper- Absolutely.

Chairman Reinhardt -Okay. All right, very good. All right, so let's go through the criteria and justifications. I think we know that the single-family structures are probably 75ft away from the boundary line of the wetlands and the driveway is within 57ft. So, is it all right for the board? We're going to put. It's really. Arguably we could have two variances. But I think we're looking at basically the same thing, the same issues that the house, the driveway, all that that is going to impact the land involves the same fundamental justifications for granting the variance. Would we all agree with that?

Chairman Reinhardt - Okay. Great.

1.) Undesirable change would not be produced in the character of the neighborhood or detriment to nearby properties created by the granting of an area of variance.

Justification: As indicated, the property is 18.2 acres. We have determined that due to topo challenges and the engineering layout that it would be minimal impact to the trees, minimal impact to the land, and it is the best location for the driveway and structure. Oh, and also, let's indicate, put in there that if we'll strike that, we're going to put this in the second criteria. As far as the cost...

Chairman Reinhardt- Would anyone like to add anything on the first criteria's justifications?

2.) Second, the benefits sought for the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area of variance.

Justification: *The. The location is for the justifications. It was indicated for the first. We can put that in there. And let's add in that the engineers indicated that it would be approximately \$200,000 additional cost if they were to comply with the code.*

Mr. St. Cyr- That's just for the road. 30,000 just for the house?

Mr. Cox- Yeah, correct.

Mr. St. Cyr- How much. How much are you spending, if I may ask, on a house?

Mr. Cox- House cost, I don't know specifically, but 600,000.

Mr. St. Cyr- You're talking about 5% of the cost of the house.

Mr. Cox- It'd be more. 30.

Mr. Ryczek- That'd be like 33% of the cost of the house.

Mr. St. Cyr- 30,000 on top of.

Mr. Ryczek- Oh, just for the house?

Mr. St. Cyr- Yeah.

Mr. Ryczek- 5% if you counted the driveway, too.

Mr. St. Cyr- No, I mean, I. You know, the driveways, that's just out of the world.

Chairman Reinhardt - Okay.

Mr. St. Cyr- Yes.

Chairman Reinhardt - Anything else in the justifications for the second criteria?

Mr. St. Cyr- So it's going to be 30,000 on the house and 200 on the.

Chairman Reinhardt - Help me understand. Why does that matter?

Mr. St. Cyr- I don't know. You said 200,000...

Chairman Reinhardt- because of the impact of what it would cost to comply with the code.

Mr. St. Cyr- But the variance for the house is a different. I know we put them all together, but the variance for the house is a lesser amount than the variance.

Chairman Reinhardt - Okay. What number would you like to be put for the house?

Mr. St. Cyr- 30.

Chairman Reinhardt - Okay, that's fine. Anything else on the second criteria, the justifications? All right. The requested number.

3.) The requested variance is not substantial.

Justification: I think, considering the minimizing the impact of the trees and minimizing the impact to the land itself. And the best location possible for an 18.2-acre parcel. We consider that is not substantial.

Mr. Oates- I think we should also say it's following the existing cleared trolley path that's there for the driveway and then the house. It's only the one close point is 73. The back corner still meets it. So, it's only like a section of the house and not the entire House running that 73.

Chairman Reinhardt - I think you picked the point that's closest to the issue.

Mr. Oates- Yes. I'm just saying it's not substantial because the rest of it is farther back as well. And that's just a pinch point.

Chairman Reinhardt - All right. Anything else in the third criteria and justifications?

4.) Fourth, the proposed variance will not have an adverse effect or impact on the physical environmental conditions of the neighborhood or district.

Justification: I haven't heard anything from the engineer or any concerns from the board that it would have an adverse effect. Would anyone like to add anything?

Mr. Coates- Is it. Is there because it doesn't need a Army Corps. It's not within the buffer. In other words ...

Chairman Reinhardt – We can put that in there is the necessity of an Army Corps of Engineers review is not necessary, what you're looking for.

Mr. Coates- Which would imply the environmental. Right. If I don't. The buffer would exist to assess whether there's drainage or stormwater runoff issues. Right. And so, if

Mr. Oates- the core just doesn't provide buffers on federal wetlands, the DEC does. But this would not be DEC because it's outside the urban area. Adam?

Mr. Ryczek- Yeah.

Mr. Coates- Yep, I'm fine. I'm just trying to assess the wetlands are there to protect wildlife, but also. Like stormwater runoff and drainage for surrounding areas. So, I just would. I think it would be worth commenting on. It's in a rural area, so there's. No further studies that have to take place that would maybe. I'm not articulating it quite right. It's okay. We can leave it out.

Chairman Reinhardt – You sure?

Mr. Coates- No, no, I'm. I'm okay. I actually. I understand Glenn's commentary around runoff and stormwater drainage, which is typically why you have wetlands there. It doesn't change, probably that it doesn't change. It just is something worth mentioning, I think. But I don't know how to articulate it differently.

Chairman Reinhardt - Well, I think we've. There's an indication that we certainly haven't been provided with any evidence that there would be an adverse effect or impact. We've, I think, addressed the need for the Army Corps or lack of engineers to take a review of it. So, I don't know how to do it. It's approving a negative or talking about A negative.

Mr. Coates- Yeah, I guess it's just like that in and of itself. Gives the reassurance that it will. Wouldn't have the impact this is driving at. I'm okay. As is.

Chairman Reinhardt - Okay.

Mr. Coates- Don't.

Chairman Reinhardt - Okay. All right then, moving along.

5.) The alleged difficulty is self-created.

Chairman Reinhardt - As far as conditions. I think it's already given that planning board has to review this. Is there any other conditions that the board would like to or anybody else? Conditions to the proposed variance. Good. We're good. Okay. All right then, moving along. I would entertain a motion for approval.

*On a motion made by Patrick Coates and seconded by Matt Oates
the application has been APPROVED.*

This resolution has been put to a vote with the following results:

<i>Michael Reinhardt</i>	<i>AYE</i>
<i>Lya Theodoratos</i>	<i>AYE</i>
<i>Matt Oates</i>	<i>AYE</i>
<i>Larry St. Cyr</i>	<i>AYE</i>
<i>Patrick Coates</i>	<i>AYE</i>

Results: 5 Ayes, 0 Nays

Chairman Reinhardt - Motion carried. Thanks very much for your presentation and your patience. I don't. We. I know you've been waiting. Really patient. Just could we. One maybe ninety seconds. Just stand up, everyone. I think we're going to be a little bit. Just 90 seconds. Here we go. There we go. Okay.

ENGBRECHT, 7659 St RT 251 **County- Class 2** 30-Z-2025
Seeking a use variance to allow the property to remain a 3-family home. Where the code only allows for 2 units.

Mr. St. Cyr - Everybody's been waiting for us to have this meeting.

Chairman Reinhardt - Thank you. Thank you. Okay.

Mr. St. Cyr- Good choice, Mr. Chairman.

Chairman Reinhardt - All right, ready?

Mr. Engebrecht- Okay. Good evening, everyone. My name is Kurt Engebrecht, and I own the property at 7659 Victor Menden Road. And I'm asking for use variance for the property that was purchased by my parents. I don't have the exact date. I can look it up. And the use variance is for an existing third apartment at the property that was conveyed at that time as a rentable unit. I have of course since learned that that is not the case, that the zoning only allows for a two-family residence to be at that location. And so that's the primary. I would say ask for the variance. Secondly. There is a barn apartment that my parents created illegally, which I am not asking that that be provided in any type of variance. It was used as an office to a garage door company. So, there was a powder room, a little kitchenette. It was basically just a little fixed up area in the barn that they used as an office space. And as I read through the information, that specific use permit was only permitted to that company and not for future use. So, I did ask that that potentially be considered again, that that could be used just as an office space, not as a residence, so that the residence would be eliminated. So, I did provide a package which basically defined the history of the place as well as the small improvements that were done to it to just make it rentable. There was no major structural change. There was no additions done. This third unit, which is in the back of the building, new flooring was put in, new stove top, a couple small things to make it so it was rentable. So those. These are pictures of it when it was completed. So, as part of the application, I filled out also the financial overview. I'm not sure. Did Matt, did you contact me? Someone called me.

Chairman Reinhardt - I did. We'll get to that as soon as you're done.

Mr. Engebrecht-Thank you. All right. Anyway, I was provided with, you know, just information as to what the zoning board looks for as far as why would they approve something like this and considering it is not currently zoned for that. So that just sort of gives you an overview. The, you know, part of the

application is the financial need of this unit to make this property viable. The. And I provided that in the information as far as the expenses associated with it, as well as the income of the rents. I think one of the benefits of the property, you know, why the town of Victor would like to keep something like this is the. The rental costs are very low here comparatively to most of Victor. One bedroom apartment in. According to Zillow, there's only two available right now in the town of Victor and they're \$1,450 each for one bedrooms. The. I think it's apartments.com said the average price for a one-bedroom apartment in Victor is \$1,472 a month. So, this particular unit was renting for \$750 a month. And I just feel like it provides some type of property to renters that don't have as much money. So, I guess I'll just answer questions.

Chairman Reinhardt - Okay, so before we do, Suzy, could you put up the use variance requirements criteria? There we go. Okay, so this is the criteria that not just this zoning board, all zoning boards. Look, we had a conversation last week, so I think your letter indicated if there were any questions. Normally I don't do that, but with the use variance, because of the complexity and difficulty of having a use variance granted, I thought it might be useful for you to at least to give you a heads up on what challenges that you're looking for. There have been a few use variance applications before us and there have been times that the applicant either for whatever reason, frustrated and they're thinking, why are you asking so many questions? We have to. We have to be able to plug all these facts in to figure out should a use variance be granted, you were here earlier and hopefully you're listening to some of it. Area variances are different because you don't. It's not an all or nothing. It's a balancing test of the criteria on changing the character of the neighborhood, what have you. It's not the case with use variance. You must show each and every one of those that you have an unnecessary hardship for each and every permitted use in the district. So all of those permitted uses, and I believe it's our one district single family, two family dwelling, or a bed and breakfast, you have to be able to show that you have an unnecessary hardship on all of them, not just for the property that you purchased. That's what we're going to be looking at. And if any time during our questions, if you say, wow, I'm not ready, I need more information, just say it. We can, if we believe that you really going to say, do your homework, get us some financials that we're looking for. All you have to say is, can I have some more time? I think I can do it. We'll be happy to do it anytime you just say the word. Fair enough.

Mr. Engebrecht- Fair enough.

Chairman Reinhardt - Okay, good. So, with that, What I'd like to do is at least start some of the questions and as we go along then on those particular topics, allow the board then to ask questions about those topics. There's all due respect to board members, I have probably the most experience here, so I think I have an idea of those kinds of questions that need to be asked before we go down all these different avenues that might be challenging and we'll see what happens.

Mr. Engebrecht-Okay.

Chairman Reinhardt - so tell us when you purchased the property.

Mr. Engebrecht- Okay, so it was actually given to me by my parents two years ago. And so, they had, you know, owned it up until that point, maybe three years ago. So, they purchased. Let me just pull it up.

Chairman Reinhardt - Maybe I can help. And correct me if I'm wrong, I'm getting the information from OnCor.

Mr. Engebrecht- Yep.

Chairman Reinhardt - In 2010, Donald Finch owned it. And at some point, in 2014, your parents, that would be Ronald and Patricia?

Mr. Engebrecht- correct. Yes.

Chairman Reinhardt - Looks like about 2014 they purchased it.

Mr. Engebrecht- Yes.

Chairman Reinhardt - Then in 2016, it was converted to a trust.

Mr. Engebrecht- Okay.

Chairman Reinhardt -All right. I mean, that's what OnCor is saying.

Mr. Engebrecht- That's fine.

Chairman Reinhardt - Doesn't mean that that's.

Mr. Engebrecht- That could be true.

Chairman Reinhardt - Okay. And then there was some kind of deed correction in 2021 in your name as a current owner.

Mr. Engebrecht- Yes.

Chairman Reinhardt - Okay, so far so good.

Mr. Engebrecht- So far so good.

Chairman Reinhardt - And then I think there was some, I think reliance on whether you or somebody that OnCor and MLS has indicated that it was a three-family residence.

Mr. Engebrecht- Correct. When they purchased in 2014.

Chairman Reinhardt - I think we need to cut to the chase. Just because MLS says it or Encore says it, it really doesn't matter. It's what the code says? The code says you can have two families. They're not a three family. So, I don't want anybody going down a well, you know, how long have you had the three? It is what it is. That's what the code says.

Mr. Engebrecht- Okay.

Chairman Reinhardt - Do you have a number of what the fair market value of the property is currently?

Mr. Engebrecht- Currently, as a 2 family, it's probably in the 250 to 260 range would be my guess. And then as a 3 family, maybe more like 300, 310, something like that.

Chairman Reinhardt - So I think we. Hopefully, we pinned that down. You can't sell it as a three family

Mr. Engebrecht- I know.

Chairman Reinhardt- because that's inappropriate.

Mr. Engebrecht- Right. Okay.

Chairman Reinhardt - So as it exists today, as is most of the time you're a realtor.

Mr. Engebrecht- Yes.

Chairman Reinhardt - Okay. So, you know, you have to be able to, as a seller, not disguise things and sell it as it is. So, it is a two-family residence.

Mr. Engebrecht-Correct.

Chairman Reinhardt - So you think the fair market value is approximately 250 for that property.

Mr. Engebrecht- mhm.

Chairman Reinhardt- All right, I'm just trying to get an idea of what is the value of the property and whether or not you can demonstrate that you would get a reasonable return. That's the first part of the criteria. Can you get a reasonable return for the property? Any attempts to sell it?

Mr. Engebrecht- No.

Chairman Reinhardt - Any offers received? Does somebody knock on the door and say when to buy it?

Mr. Engebrecht- No.

Chairman Reinhardt - And in the time that you've had it, how long have you had it in your possession, your control of it?

Mr. Engebrecht- The four years.

Chairman Reinhardt - So within that time, what was your actual income realized? Per year's fine.

Mr. Engebrecht- I would say approximately \$22,000 to \$25,000 per year.

Chairman Reinhardt - Okay. All right. With that, before I start going into other avenues on those kinds of topics that we're dealing with. Want to start this way? That way, do you think?...

Mr. Coates- Go that way.

Chairman Reinhardt- Okay.

Mr. Oates- is that gross or net? The financial.

Mr. Engebrecht-That's gross revenue.

Mr. Oates- Gross. Okay. I just wanted to clarify.

Chairman Reinhardt - Okay. Any other kinds of questions on those avenues we're looking at? The topic of the law requires us to look at what they call dollars and cents. You know, getting something real that we can get our arms around and what the value of that property is if you were to try and sell it. And you said it was gifted. Right. Do you know what the value of the property when it was gifted to you?

Mr. Engebrecht- I mean, they purchased, I think, for about 140. I've got it here, but so it was probably closer to 200 when they gave it to me.

Chairman Reinhardt - Okay. All right.

Mr. Oates- So there are three apartments in the one home right now.

Mr. Engebrecht- Correct. That was the way it was.

Mr. Oates- So then, and I know you said you were trying to keep rents low, but if you say put in a renovation of the home to bring it into a two family dwelling or even then make it a much larger single family home, would you be able to put in a renovation budget and then be able to sell it and market it for a much greater value than, than it currently is and like, so like rent the apartments instead of a lower rent. Put in a lot of money to rent them. And now you're getting 2,500, 3,000 for two really nice apartments in Victor. That would completely change your rate of return then at that point.

Mr. Engebrecht- The difficulty is the each unit has unusual roof lines and is not, you know, it's not going to be competitive with what's currently available in the rental market. So, the upstairs has very small bedrooms. This is the second unit. I mean they're probably 8 by 10 maximum. The kitchen is older and the bathrooms sort of minimal type thing. So, it would cost a lot of money. And then you'd only end up with a one bedroom because you'd have to knock a wall out, I think to create a big enough bedroom that people would be interested in that as a nicer unit. The main, the main unit on the first floor, you could renovate the bath and make that nicer. The kitchen would have to be renovated. You probably, I mean, kitchen and bathroom renovations have gotten gone through the roof. So, you're probably looking minimum 15,000 for a bathroom renovation today and probably 30,000 minimum for a kitchen renovation. So, if you made these improvements, the building itself is 1860 or something like that. Structurally it has lower roof lines. It's not current to what people's expectations are. So, I think you'd be spending a lot of money and maybe not getting a full return on what you put in.

Chairman Reinhardt -Good for now. Larry?

Mr. St. Cyr- have you had any trouble renting it in the last four years?

Mr. Engebrecht- The only trouble I've had is this is a crazy intersection where Phillips Road comes right into this property and people have driven into the house. And so, I've had six months where I had to renovate the property after a car drove into the house. And so that was one of the times when it was not rented. Besides that, now it gets rented pretty easily because the prices are lower.

Mr. St. Cyr- Have you raised the rents at all in the last. In the four years?

Mr. Engebrecht- Yes. So, when I renovated the lower unit, it moved from 950 up to 1100.

Mr. St. Cyr- You tried to raise the rents at all when it's been Vacant. In other words, if you're getting 1100 now from the people who are renting the bottom, what do you think you could get?

Mr. Engebrecht- I mean, what's a reason? Well, I mean, typically \$100 increase per new tenant is pretty common. And if they were to renew for a year, legally in New York State, you're supposed to keep it to less than 5%. So, if it's a renewal, you're only looking at a 5% increase, \$60 or whatever it might be, on 1100. Whereas ...

Mr. St. Cyr- let me ask the question a different way. If it were vacant right now.

Mr. Engebrecht- Yeah.

Mr. St. Cyr- What would you ask?

Mr. Engebrecht- Probably 1200 for it.

Mr. St. Cyr- You wouldn't go any higher.

Mr. Engebrecht- It's not. I mean, the kitchen's not that nice. It's. I mean, I don't know. I mean, probably. I mean, it's a two bedroom, so, I mean, based on what I'm seeing out there, I probably could get more like 1400, I would guess. But then ...

Mr. St. Cyr- And the one upstairs?

Mr. Engebrecht- what's that?

Mr. St. Cyr- The one upstairs.

Mr. Engebrecht- that, I mean, that's going to be less than a thousand. It's just not good. I mean, it's not nice. It's got tiny bedrooms.

Mr. St. Cyr- You haven't had any trouble renting that either, though?

Mr. Engebrecht- Well, the, the tenant who's been in there has been in there for, I don't know, maybe three or four years. And I haven't raised the rent because she has cancer.

Mr. St. Cyr- If she weren't there, it'd probably be asking for more.

Mr. Engebrecht- Yeah. Maybe 1,050, something like that. Yeah.

Mr. St. Cyr- You're talking another \$300 a month between the two of them.

Mr. Engebrecht- Yeah.

Mr. St. Cyr- Okay, fine. Thank you.

Chairman Reinhardt -All right. And there'll be more questions along the line, Lya, questions on this topic.

Ms. Theodoratos- So all in the four years you had control of this house, all these three, three units were always rented. You didn't, you didn't like, live in any of them? They were always rented?

Mr. Engebrecht- No, I, I did not live. They were always rental. My son lived in unit one. When I estimated the income, I estimated that he was paying, which he was not. But my son lived in unit one for, I think between 21 and 22 in unit one. The other apartment we haven't gotten into has been occupied by family members and they've never paid rent. That's not legal. So.

Ms. Theodoratos- So one, one unit is occupied by family member, no rent and two units. Or you collect rents?

Mr. Engebrecht- No, actually, the three units, the, the fourth illegal unit is where the family member is...

Ms. Theodoratos- in the barn.

Mr. Engebrecht-In the barn. Yeah.

Ms. Theodoratos- Okay.

Mr. Engebrecht- so the other three units collect rent.

Ms. Theodoratos- Okay. Okay, clarify that. Are there any does the house have a garage that the tenants keep their cars in?

Mr. Engebrecht- No, it has a barn. But the barn is not used?

Ms. Theodoratos-No, no.

Mr. Engebrecht- it's just as a. My parents keep some junk in one of them.

Ms. Theodoratos- So there's no garage.

Mr. Engebrecht- No Garage, yes.

Ms. Theodoratos- Right. That's all for now, Mike.

Chairman Reinhardt -Patrick.

Mr. Coates- You said it was an older structure. Would it compromise the structure if you were to bring it from the three Units to the two?

Mr. Engebrecht- No. I mean, it's not really practical because the third unit's in the back of the building, and it's not. I think it must be on a crawl space because the basement is a very old basement. This is an old original farmhouse, and that's underneath unit one. And they. I don't. It must be a crawl space under

unit three because it's not connected. The basement doesn't go underneath it, so.

Mr. Coates- And that unit three is the third unit? Yes.

Mr. Engebrecht- Yeah. The one in the back. That's not permitted. Yeah.

Mr. St. Cyr- Okay. So, there's actually four units. There's one in the garage.

Mr. Engebrecht- Yes.

Mr. St. Cyr- So we're just talking about the main building.

Mr. Engebrecht- right. Yeah.

Mr. St. Cyr- Okay. Thank you.

Mr. Engebrecht- The one in the barn's gone or off limits. My daughter will move out at the end of the month.

Chairman Reinhardt - All right, let's get a few more dollars and cents questions. Looking at OnCor today, they indicated. It indicated total assessment is \$203,000. Land 55,000. Fair market value of 303,000. I don't think it's too far off of what your estimates were, but I think it's at least fair enough to look at again, when you're looking at dollars and cents, some type of proof of what is the property worth. So as far as permitted uses, permitted use in that district can be a single family. What would it cost, if any, to convert that dwelling into a single-family residence?

Mr. Engebrecht- So there's a common hallway that you enter into the unit 1 and 2, and a stairway that goes up. So, if you were to just. I mean, I don't think there's much cost to convert it to a one family. They would have two kitchens. I mean, it would be sort of nonsensical, but it would have two kitchens and the upstairs. So, the upstairs, just to explain, the living room is like a Cape Cod, where the ceilings come down pretty tight and there's a little kitchenette associated with it and then a bathroom and then these two little bedrooms, and that's the second floor. So just to make that part of the whole house. I don't know how you would spend money to make it better Create a different, you know, sort of out, you know, layout for it. I mean if you just took the kitchen out, you'd have a bigger, a little bit bigger living room or bedroom, if you wanted to call that then a bedroom up there, there. And then you'd have two little bedrooms and a little bathroom up there.

Ms. Theodoratos- It sounds....

Chairman Reinhardt - It could not. I'll let you hold on.

Mr. Engebrecht- Yeah.

Chairman Reinhardt - Again, dollars and cents. If someone bought that or looking at OnCor, \$300,000 and didn't want to do a two-family residence, wanted it all to themselves, it would cost something to pull the wall out, do something. And you say two kitchens. I have memories of my grandmother having two kitchens. She cooked a lot. So, there are some houses that have two kitchens. It's not uncommon. Maybe not. It's not unusual. So, do you have a number though on what your rough estimate on what it

would cost? Are we talking 10,000, 20,000 to convert it? There's number that if someone wanted that for a single-family unit.

Mr. Engebrecht- Yeah, I mean I just can't visualize someone wanting it, you know, based on what it is. But to convert it into something, I'd say only 10,000 or \$20,000 to make it functional.

Chairman Reinhardt – Okay. Fair enough. And as far as to comply with a two-family dwelling, I know right now it sounds like it's set up for 3 2. What's it going to cost you wanted then to say. Let me put it this way, the board decides to deny your request for a three unit use variance permit a two. So, what's it going to cost to keep it at 2. 2 or convert it to 2? I should say same amount, plus or minus a little bit.

Mr. Engebrecht- Yeah, I mean, I guess trying to figure out access and you know, if you were going to connect the first floor to that back unit. I don't know, I probably. Let's just say \$20,000.

Chairman Reinhardt – Okay. I know and these are just rough numbers. It's just to plug something in.

Mr. St. Cyr-Excuse me.

Chairman Reinhardt- permitted uses of bed and breakfast and I don't think you're going in that direction.

Mr. Engebrecht- No.

Chairman Reinhardt- So, we're looking at these permitted uses. So, on those topics. Lya, questions? Concerns?

Ms. Theodoratos- Well, I was just going to comment earlier from what you were describing about the second floor that you said it was like a Cape Cod. It sounds to me that maybe at one time it was a one family.

Mr. Engebrecht- Oh I think it was...

Ms. Theodoratos- somebody converted it to a two family. So, I think it could be easily converted back to one family. And you know, Mike said some people have two kitchens but then pull the kitchen out on the second floor, you know, and I think there are some people who would be amenable to buy such a property and do that if it's sold as is to convert.

Chairman Reinhardt - Larry, you had something to comment.

Mr. St. Cyr- I was going to say you mentioned 20,000 to go from three to two, but you could just shut down the third one in the back.

Mr. Engebrecht- Yes.

Mr. St. Cyr- I mean, obviously it would waste the space, but.

Mr. Engebrecht- Right, well. And the problem is that you then lose about \$8,000 worth of gross income.

Mr. St. Cyr- That's all I have.

Chairman Reinhardt- Matt?

Mr. Oates- I'm trying to understand the reasonable rate of return and how we're looking at it. If we're trying to just look at it as a financial statement for just 20, 25 calendar year overall for you. Because what I'm having a hard time getting past is you said the property was gifted to you by your parents, so your purchase price is zero.

Mr. Engebrecht- Right.

Mr. Oates- So you can always get a reasonable rate of return just by selling it as, as a two family, as just someone else to renovate. So just from that standpoint, I just, I don't know how to get past or.

Chairman Reinhardt - Well, if you look at tax law, when a property is gifted to an individual is the base that the, Giftee the, the one who got the gift received it based on the property that the Giftoor picked it up at. So, if, if parents bought the property, let's say at 150,000 and now it's currently 250, that's the gain the potential gain ...

Mr. Oates- So You still use the value that. Okay, you're still using the value that his parents purchased the house at, then as part of the reasonable rate of return then.

Chairman Reinhardt - You can look at a number of different...

Mr. Oates- and not a zero.

Chairman Reinhardt- ways, figuring out what the dollars and cents of can the applicant get a reasonable return for the property? So, one aspect is what did you buy it for? You didn't buy it, it was gifted. But it's fair then I think to look at it that as a gift the base value of it was what your parents originally paid for it.

Mr. St. Cyr- I think an argument could be made that the base price is not necessarily what they paid for, but what the value was at the time they gifted it. I mean, I've seen some texts that capital gains is like that. In other words, if you have a piece of property and you gift it to someone else, for example, if you donate it, the gift then becomes what it's worth at that time.

Chairman Reinhardt - Yeah, yeah. I'm of the notion that it's what I've described earlier, that if the applicant were to sell it today, the capital gains would be based on starting point of what the parents bought it for.

Mr. Oates- okay.

Chairman Reinhardt-not at the time it was Gifted. And I think that's why when you look at estates and trust law, that it's done that way. It creates this legal avenue for the beneficiaries to get the property. It's something that their parents picked it up for. But when you sell it, that's when you, you get hit with the capital gains.

Mr. Oates- So then if you sold the house in its current as is condition, just as a two family based on, on that, and then what you'd have to pay in capital gains and all the money you put in, would, would you

still be making money on that or would you ultimately at this point today be losing money?

Mr. St. Cyr- We'd have to be making money. 140 sells for 250.

Mr. Engebrecht- Yeah, I mean the capital gains, I mean, I don't know what I'd be paying. I mean; I guess we have to ask Donald. But the, I think 25% of the gain would have to go to capital gains. So, then it's a matter of, you know, the balance of that money. I mean a lot of money gets invested in that property every year. And so, I mean I did provide you last year's numbers and it was \$27,000 it cost to run that property. And so, and those numbers are straightforward. Taxes, insurances, everything that it cost to, to run a three family. So, you know, I haven't gained, you know, if I've gained anything, it's basically even because I've got my kids, I had my kids in there, that type of thing. So, it wasn't costing me money.

Chairman Reinhardt - The criteria is it's substantially unable to make a reasonable return. What is reasonable is for a board to figure out. It doesn't sound like you're losing money. And you also have, and I appreciate your candor on, can you use the property for something that's permitted within the code? I think we're all in agreement that three family is not permitted. That's why you're asking for the use variance. Two family is single. So, you can do some certain things to either convert it into single, live in it, sell it, do what you like with it.

Mr. Engebrecht- right.

Mr. St. Cyr- My understanding is though that it's only okay to be a two family because of the variance that was granted in '85.

Chairman Reinhardt - No, I don't, I don't think that's true.

Mr. Ryczek- No, the R2 district regulations allow for a two-family dwelling.

Mr. St. Cyr- Oh, okay, thank you.

Chairman Reinhardt - Right. The, the past. I think what you're referring to is the 1985 variance that was granted. Three family. Request was denied. The two family was approved, but there were certain limitations. And conditions on the garage. The variance that was granted on that barn area, it looked like a sunset provision. As soon as the commercial overhead door moved out, it lapsed. So, a commercial operation of what they were doing in there, you'd have to apply for another variance. You can have a two family in that structure, in the home, not the barn. I don't want to cut anybody off. Lya you got any questions about, so far, where we're at with the topics? Pat?

Mr. Coates- No, I'm good.

Chairman Reinhardt -Patrick? I'm sorry.

Mr. Coates- No, you're fine. I've been called worse.

Chairman Reinhardt - All right, let's press on a little bit here. As far as the second piece, the hardship is what they call somewhat unique. The it's not close to wetlands. There's no topo issues. Traffic pattern, though you did mention is a T intersection. That does create some degree of uniqueness. How many motor vehicle accidents have been there? As far as whether you've owned it, your parents owned it?

Mr. Engebrecht- Two that I'm aware of. One since I owned it. And then there was another where they veered off and hit a high hot tub in the house.

Chairman Reinhardt - Okay, so you told us. Let's see, it was gifted to you. We got a purchase price. I think we've established that you got it from your parents, and we got the timeline from Donald Finch, because I think one of your exhibits that you use, the owner's name was Donald Finch. And I'm looking at. It's a history of the property. I'm sorry, history of the purchase. On that first page, it says the owner's name is Donald Finch. List price was \$149,900. Sell price was 136,000. It doesn't really indicate, though, who the buyer is, but I think we know who it is. It was your folks. But it's curious though. I think it does. Multifamily residents, two to four units. A bit vague on that part, but whoever input the MLS information that's on them going down. We have. Let me ask you this. When did you first realize that your parents were operating a three-family residence rental illegally?

Mr. Engebrecht- Actually, just when Joe. So, Joe Jono, the building inspector, that was just back in, I think November. So, there was a complaint by the tenant in unit three. He went and went over there and cited a bunch of issues with that unit that would have to be corrected. And at that point, that was the first time I was aware that that unit was not legal. As he brought it up, he said that that's not a legal unit back there, needs to be closed. And then I knew my parents had done something in the barn. That was not. And they didn't get a variance for ahead of time ...

Chairman Reinhardt – The variance of 1985. Have you seen that?

Mr. Engebrecht- Yes, it was sent to me.

Chairman Reinhardt -Okay.

Mr. Engebrecht- Yeah.

Chairman Reinhardt - When's the first time you were aware of that variance? And really the denial of the request for three family. I know this is dated 1985, but. When were you aware of it?

Mr. Engebrecht- When it was sent to me last month.

Chairman Reinhardt - Okay. So fair to say then your parents knew but didn't tell you that? Okay. All right. I think we've touched on the MLS isn't necessarily. Hold on one sec. We touched on that OnCor and MLS isn't necessarily guaranteed. It's just information. Go ahead. Question.

Mr. St. Cyr- It's possible his parents didn't know.

Chairman Reinhardt - I don't think so. They made the application.

Mr. Ryczek- There's some. There's some code enforcement history here. 2017. At least with the. At least with the barn apartment, they. Were ordered to discontinue the use as a dwelling. It said at that time it was accomplished. So at some time between now and then it was re established. I don't see anything on that.

Mr. St. Cyr- That as the one in the barn, correct?

Mr. Ryczek- Correct. And then there was. I'd have to get into this little further.

Chairman Reinhardt- I have a date in 20. In 2017, his parents, this would be Ron and Pat were notified that the three-unit apartments were not permitted and were provided with the 1985 resolution.

Mr. St. Cyr- Okay, apologies.

Chairman Reinhardt - So. I don't know. It's fine. It's a good question. All right. I think again the rest of at least the hardship pieces that I have that we've already touched on. So, before we go any further, does anyone board have any questions about the hardship pieces on how it is, if at all, that this property is unique compared to the other properties that are within the area?

When I mean the area, let's just say within a radius of 2,000 yards. Okay. None. So, let's touch on the overhead view from OnCor. The property that's highlighted in yellow, that's the subject property, is that right?

Mr. Engebrecht- Correct.

Chairman Reinhardt - So let's go clockwise and to the north. And this is my map showing too that this is due north. This is the larger piece of property across the street from 251 where my pointer is indicating. Fair to say that that is a light industrial area.

Mr. Engebrecht- Yeah, it's electric.

Chairman Reinhardt - And if we go clockwise across the street from Phillips Road where I'm pointing, that's also a light industrial area. Right. And as we then go across the street at 251, the property then to the east, due east. Do you have any idea on what that is there And I think the address is 7653.

Mr. Engebrecht- It's just a single family.

Chairman Reinhardt - It's a single family. Okay, if we keep going clockwise, this would be on the corner of Deer Crossing. I think the address is 870 Deer Crossing. Single family.

Mr. Engebrecht- Single family.

Chairman Reinhardt - And all that in there and Deer Crossing. All those properties. And looking at, I think it's Creekwood as it goes up. All those properties that are surrounding the surroundings, subject property, those are all single family. And the only one that I know of that is any kind of, I guess multiple family is the one that I'm indicating. It looks like there's 1, 2, 3, 4, 4 5. Looks like mobile or

Mr. Engebrecht- manufactured houses.

Chairman Reinhardt- as far as I know. I talked to Adam this morning and that's a non, nonconforming, preexisting condition. The reason I ask those questions is in that neighborhood or district, any three families in there? I don't think so. Fair to say. And I ask that because one of the criteria number four is would the granting of a use variance change the character of the neighborhood? I think arguably in my mind, I can't speak for the whole board that putting a three family in there would. All those other ones are new construction, single family. They have something to the contrary. I'd love to hear it.

Mr. Engebrecht- No, I mean, the only other one I'm aware of is further down. It's a two family.

Chairman Reinhardt - Okay, all right, so on those, would a three family change the character of the neighborhood or hardship? Lya, you got comments about either topic of hardships or really anything, whether it's substantially unique hardship or would it change the character of the neighborhood?

Ms. Theodoratos- Well, I think being that it's all. And you pointed out all these are one family, you know, with the exception you said one further down was a two family. It really doesn't seem to me that a two or even especially a three family is in place there because. And it's. And it seems to me that this probably was a one family house at one time and then somebody converted it to two and then made that section in the back into a three family, you know, so I think at the very least it should be a two family, but preferential one family.

Chairman Reinhardt -Larry.

Mr. St. Cyr- I don't disagree.

Chairman Reinhardt - Okay, Matt.

Mr. Oates- I'm not trying to give any credence to it being illegal and existing, but since it's. It's there just in regards to the character of the neighborhood and it already being there and existing, I guess in part of the neighborhood versus it being used, trying to allow it, I completely get a three Family home wouldn't fit within the character of the neighborhood, but it's kind of already in the neighborhood. So, I'm just trying to balance that without giving any credit for like, well, it's been illegally being used as the three families, so you can't really necessarily give it credit. So, I'm just kind of balancing that for that specific portion of it.

Chairman Reinhardt - They asked for it in 1985, they meaning the property owners. And it was denied. And there was opposition, public opposition to it. And the standard that an applicant has to show is cannot get a reasonable return. So, whether it's. It's there or not and it's been there illegally for some time is a bit. It's not even irrelevant. It's contra to what?

Mr. Oates- Correct. I actually, I'm still really on the first criteria.

Chairman Reinhardt – Okay.

Mr. Oates- the reason why to return. I'm really not past that at all at this point.

Chairman Reinhardt - Okay.

Mr. Oates- I'm just saying on that very specific question about the character of the neighborhood, that was it. I'm haven't moved on in my head. The fact that I think you could. You could sell the home and get a rate of return on that one. I think even if you don't want to do it, I think that makes it very difficult to get past that first criteria. And I think that's. It's been set up that way, unfortunately, that it's just incredibly, incredibly difficult to actually meet the standards to get there, unfortunately.

Chairman Reinhardt – Okay.

Mr. Coates- summarize it. Well.

Chairman Reinhardt - Okay, good. All right. So, I think we're at a point and it is not rushing you. We've gone through a lot. You've been incredibly patient for all of the other applicants that were before you. If you want to continue, you certainly can. If you want to say, boy, I'd like to get. Have an opportunity to provide more information now that, you know, I think more of what we're looking at. The choice is yours, right? Ask for some more time. You can say, no, I think I'm going to take my chances, let the board vote. Or you can say, you know what? I think I'm going to withdraw because there's consequences of a board voting and having the. Have you made variance applications before? Okay, so if a variance is denied, there's a period of time when you can't ask for the same variance again. If you withdraw it, you can ask for the application or the variance sooner.

Mr. Engebrecht- Okay.

Chairman Reinhardt - So there's consequences to either or. And there's times. Again, I've had applicants. Boy, you need to think about it. This is your application. We're giving you a chance to.

Mr. Engebrecht- Right. I think just based on all I've learned tonight, I'm going to withdraw it.

Chairman Reinhardt - Okay.

Mr. Engebrecht- And then I'll try to figure out what I'm going to do with the property.

Chairman Reinhardt - Okay. All I ask then is send an email to Amber just formally saying we got it here, but we usually just like to dot our I's, cross the T's. Send an email saying I thought about it, I'm going to withdraw it and okay. Take whatever course you're going to take next.

Mr. Engebrecht- Okay.

Chairman Reinhardt - Okay, good. All right. Thanks so much for your time and patience.

Mr. Engebrecht- Thank you.

Chairman Reinhardt- All right. Anything else before the board hearing? Anything? Chris, thank you for coming. You're good questions. We can talk after if need be. I would entertain a motion to adjourn.

On a motion made by Larry St. Cyr and seconded by Lya Theodoratos the meeting was adjourned at 10:15 pm.

