

RESIDENT LETTERS

RE: C.M. FOX Subdivision

Received (or resubmitted) 5/19/23 or beyond and  
in addition to the  
Agenda and Materials posted for the 5/23/23 ZBA Meeting

## ZBA Letter

RECEIVED

MAY 23 2023

Village of Altamont

Deborah Katz &lt;deborahkatz14@gmail.com&gt;

Mon 5/22/2023 8:10 AM

To: Mark Naginey &lt;mnaginey@wradvisors.com&gt;;

Dear Chairwoman Hext and Altamont Village Zoning Board Members, *my husband and I are resubmitting the following letter to the Altamont ZBA in advance of the public hearing on May 23rd, 2023.*

We are writing to you about the proposed subdivision off Schoharie Plank Rd West, Western Avenue, Marian Ct, and Gun Club Road. My husband and I own property and reside at 113 Schoharie Plank Rd West. We are long-time residents of Altamont.

My letter has two parts; 1) we wish to share our concerns and hopefully mitigate impacts resulting from the planned construction of the new subdivision, 2) technical questions specific to the SEQRA and zoning considerations.

My comments are not in opposition to the proposed subdivision. We know that "the field" has been for sale for many years. Mame Kiltz, and her beneficiaries, the previous owners of the land behind our home, shared this beautiful open green space and natural wildlife habitat for decades. We are very grateful for their kind generosity.

#### Personal Comments

Some ZBA members have said we should be grateful that only eleven homes are proposed behind our property instead of the R15 zoning that allows for 24 homes. That we should appreciate the possible increase in our property values. ZBA members commented that we will have impeccably landscaped homes to view in this new subdivision. Some residents and ZBA members frequently compare the new proposed subdivision and the completed subdivision on Bozenkill. Our experience is unique to our home and our life on Schoharie Plank West. Frankly, I prefer the sight of the Helderberg escarpment from inside my home instead of someone else's house. That is no longer the case. There is now a large new home and a glimpse of the escarpment.

The proposed third access from Schoharie Plank Rd West will alter this quiet road's unique character if permitted. The construction traffic will impact all who enjoy walking and biking around the village's interior over the footbridge. We are already imperiled when trying to use crosswalks in the village. Do we now have to give up the simple pleasure of walking on a quiet village road?

With a second large construction project on Schoharie Plank West, we will face another prolonged disruption to our daily lives. We lived through the 12-month-plus construction of the home at 108 Schoharie Plank West. The road is only 14 and 1/2-foot wide road. Our roadway was frequently blocked by construction and utility vehicles. Our driveways were, at times, blocked by construction trucks. Trucks barreled around the corner from Western Avenue with no regard for residents. Walking on Schoharie Plank Rd West was not safe during this time. Our lawns were dug up, and the road surface deteriorated. There have been three water main breaks on this road in the past 11 months. Thankfully, no medical emergencies occurred, which would have required EMS or fire trucks to wait until construction vehicles could be moved.

We lost the quiet enjoyment of our gardens, our yards, and even inside our homes because of the constant construction noise. We urge the ZBA to deny the applicant's request for a variance onto Schoharie Plank Rd West.

I ask the ZBA to consider the Altamont Comprehensive Plan and the holistic impact on all our affected residents and neighbors as they consider our comments, concerns, and questions regarding the proposed subdivision and Schoharie Plank West egress.

#### SEQRA - EAF and Implementation Comments/Questions

1) The project manager for the proposed subdivision stated during the 9/27/22 ZBA meeting that he believed **5 acres of soil disturbance required a Stormwater Pollution Prevention Plan (SWPPP)**. The NYSDEC requirements state that construction activities disturbing **one or more acres of soil must be authorized** under the General Permit for Stormwater Discharges from Construction Activities. Permittees are required to develop a SWPPP to prevent discharges of construction-related pollutants to surface waters. **Source:** <https://www.dec.ny.gov/chemical/8468.html>

2) Variances: Troy Miller, the developer, is seeking variances related to keyhole lots and shared driveways with egress to Schoharie Plank West. There are also two planned egress points to Western Avenue. Chairwoman Hext noted in the preliminary hearing on September 27th, 2022, that for a variance to be approved, the applicant has to prove that "there is no other way to do this, and this is not a self-created hardship...". Why can't the four lots use the two Western Ave egress points with the other planned houses?

- 3) Zoning Regulations 315-27 states that *no more than two access points into a subdivision are permitted*. Yet, the preliminary plan shows three proposed access points. Two egress points off Western Avenue and one egress off Schoharie Plank Rd West. Does the ZBA plan to authorize three access points for the proposed subdivision? Wouldn't the requested variance for access to Schoharie Plank Rd West violate zoning regulations specific to egress points for new developments?
- 4) Impact on existing water infrastructure on Schoharie Plank West: Three water main breaks have occurred on Schoharie Plank West in the past ten months. Has the village determined the impact of heavy construction equipment traffic on the existing water and sewer infrastructure? If so, what is the impact of additional road weight on the water main infrastructure?
- 5) FEMA Floodplain - **The homes on Schoharie Plank Rd West are in the FEMA floodplain.**
- 6) Schoharie Plank Rd West is 14 and 1/2 feet wide. This is not wide enough for emergency vehicles to pass one another on the road. Cars approaching from either direction pull over to allow another vehicle to pass or people walking.
- 7) No cut 20 - 25ft buffer zone: The applicant has said that he is willing to include a green buffer between the existing homes and the new construction. Please clarify. Is Troy Miller planning to plant a green buffer zone? Or is he leaving a no-cut zone for future home buyers to plant? This is important since we do not have a wooded line of trees between our yard and the open field. It could cost several thousands of dollars for us to hire a landscaping company to plant a buffer zone on our property.
- 8) Fire hydrants - There are fire hydrants in front of 109 and 117 Schoharie Plank West. However, the hydrant in front of #109 would require a fire hose to be dragged through the wooded area between the homeowner's property to reach lot #5. Otherwise, the hydrant in front of #117 would be the other available hydrant in the event of a fire. Does this meet NYS Fire Code?

Full Environmental Assessment Form - Part 1 Questions: D2: Project Operations We are interested in knowing the potential impacts of these issues:

c. Will the proposed action use or create a new demand for water? Total anticipated water usage/demand per day: X gallons/day. Has the village done any projections of water usage for this subdivision? Village water capacity: Village trustees have stated the village has enough water to add another 3,000-5,000 gallons a day in demand. The average summer use is 220,000 gpd, and we have a capacity of 316,000 gpd. Demand was pushing 300,000 gpd this past summer - or 95% capacity. Has the village projected the water capacity needed to support the proposed subdivision?

d. Are there any facilities serving children, the elderly, and people with disabilities (e.g., schools, hospitals, licensed 9 Yes 9 No daycare centers, or group homes) within 1500 feet of the project site? The group home at 150 Western Avenue is within 1500 ft of the project site.

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters, or other concentrated flows of stormwater) or non-point sources (i.e. sheet flow) during construction or post construction? If Yes: iii. Where will the stormwater runoff be directed (i.e., on-site stormwater management, facility, structures, adjacent properties, groundwater, on-site surface water, or off-site surface waters? Will the village engineer and Barton & Logidice, the engineering firm for the village require the applicant to a stormwater runoff plan to protect existing homeowners?

L. Hours of operation during construction. We request construction activities stay within the window: Mon - Fri, not before 7:00 AM, and no weekend construction noise.

#### E.2. Natural Resources On or Near Project Site

d. What is the average depth to the water table on the project site? The water table is very high on Schoharie Plank West. The architectural plans for the newly built home at 108 Schoharie Plank included a full basement; however, their architectural plans were redrawn after discovering the water table was so high that the home could not be built with a basement. It had to be built on a slab.

m. Identify the predominant wildlife species that occupy or use the project site: deer, fox, coyote, native birds

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? It is a known fact that the Indiana bat is listed as an endangered species throughout the village of Altamont.

h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? The Bozenkill creek and park is a local scenic and aesthetic resource within five miles of the project site.

Respectfully,  
Deborah Marion-Katz  
Mark Naginey

5/22/23, 8:29 AM

Mail - mnaginey@wradvisors.com

*113 Schoharie Plank Rd West  
Altamont, NY 12009*

## Ginger Hannah

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**From:** Jennifer Betancourt <betancourtjen@yahoo.com>  
**Sent:** Tuesday, May 23, 2023 8:08 AM  
**To:** villageadmin@altamontvillage.org  
**Subject:** Zoning Variance

I am writing to the Altamont Zoning board to voice my opposition for the requested variance of CM Fox living solutions.

I ask that the Village zoning board uphold the current zoning that has been set in place. There are zoning laws in place for a reason and to grant this variance negates the work and logic previously set forth when these zoning laws were adopted by our Village.

Developers should work within the parameters of our Village, not ask to change our zoning to suit their financial needs and rewards.

I am opposed to granting this variance. If a developer cannot work within the established zoning laws, they should develop a plan that works within the current Village structure of their zoning regulations.

Thank you  
Jennifer Betancourt

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## Ginger Hannah

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**From:** Paul Betancourt <psbetancourt@yahoo.com>  
**Sent:** Tuesday, May 23, 2023 12:22 AM  
**To:** villageadmin@altamontvillage.org  
**Subject:** Comments for Altamont Zoning Board Meeting - May 23, 2023 (Paul Betancourt)

**Hello Ms. Hannah, and the Altamont Zoning Board, and Altamont Village Officials:**  
re: Comments for Zoning Board of Appeals Meeting on May 23, 2023

These comments are sent in advance of the Altamont Zoning Board meeting on Tuesday, May 23, 2023, as I am unable to be there in person. **I am writing to emphatically express my *opposition* to the request from CM Fox Living Solutions, LLC, for area variances** to allow the creation of four (4) new keyhole lots with approximately 16 feet of road frontage (ref: property identified as Tax Map #37.14.-3-6-1), where the minimum road frontage requirement is 30 feet for a keyhole lot.

Why should the Village Zoning and Administration grant variances to its zoning laws and ordinances just to allow the "shoehorning" of this new development into a space which requires such a drastic zoning variance to be granted? There is no reason that the Village should grant a variance in this situation as it is not in the public interest of the Village. Further, it will negatively and permanently impact the quality of life of the neighbors and neighborhood, as well as permanently upset the peaceful nature of the immediate neighborhood, all just to satisfy the current (and out of zoning compliance) development plan for this property.

You should not approve this variance for this "shoehorned" development, as Zoning ordinances are there for a reason and they are meaningless if they are not enforced. Zoning variances should be granted rarely and only under exceptional circumstances in the public interest, and this request for variance does not meet any reasonable approval standard and is not in the best interest or need of the Village and its residents. Please uphold high Zoning and Planning standards as part of our Village code, laws, and ordinances. I urge you not to become a village which is poorly planned and zoning is rendered meaningless.

I ask why this development corporation did not consider and respect Village zoning laws and ordinances in place when they purchased and planned development of this property. There is no reason that the Village Zoning Board (nor the Trustees and Mayor in future meetings) should seriously consider this request.

Thank you for your consideration of these comments.

Regards,

Paul Betancourt

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Paul Betancourt  
140 Lincoln Avenue  
Altamont, NY 12009

m. 518.878.6940  
e. [psbetancourt@yahoo.com](mailto:psbetancourt@yahoo.com)

## Ginger Hannah

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**From:** Heather Fox <hhskichic@gmail.com>  
**Sent:** Tuesday, May 23, 2023 6:52 AM  
**To:** Ginger Hannah  
**Cc:** Ben Fox; Heather Fox  
**Subject:** Zoning Board Meeting 5/23/2023  
**Attachments:** ZBA letter.pages; Untitled attachment 00018.txt; IMG\_5232.jpeg; IMG\_5233.jpeg; Untitled attachment 00021.txt; IMG\_5231.jpeg; IMG\_6560.jpeg; IMG\_6559.jpeg; IMG\_6613.jpeg; Untitled attachment 00024.txt

Hello there -

My husband and I would like to resubmit the attached letter along with photos taken over the past year to be on record for the 5/23/2023 ZBA meeting.

The pictures of the huge hole in the ground on our front yard was the third water main break on our road in a 1 year period. The infrastructure underground is extremely old and fragile and the DPW guys are doing a fantastic job to fix the breaks when they happen but this street has really taken a beating over the past couple years. This old infrastructure can not sustain additional homes.

The photos of the delivery trucks are an example of how narrow our road really is and in case of an emergency, a fire truck or ambulance would not be able to get past these trucks as a second vehicle cannot even get past them. This is very concerning for not only the people that currently live on this street but if new homes are built and need to be accessed off Schoharie Plank Rd W we want to emphasize that this road is not built for additional traffic as it currently exists.

Please add the attached letter that was submitted back in October 2022 along with this email and additional photos.

FROM THE RESIDENCE OF  
BENJAMIN AND HEATHER FOX  
115 SCHOHARIE PLANK RD WEST, ALTAMONT NY 12009

October 23, 2022

Village of Altamont Zoning Board of Appeals  
P.O. Box 643  
115 Main Street  
Altamont, NY 12009

RECEIVED  
OCT 24 2022  
Village of Altamont

Dear Members,

As Village residents residing at 115 Schoharie Plank Rd West we share our concerns below about the proposed development submitted by Stephen P Walrath L.S. on behalf of Troy Miller (139 Western Avenue - Tax Map ID No. 37.14-3-6.1). It's our hope that as our Village leaders, you will discuss these concerns amongst yourselves and have further analysis conducted on any particular point if a clear answer for addressing the concern is unknown.

Schoharie Plank Road West

The street we live on was not designed or constructed to the Village or Town standards for a "standard public street" size. It's much narrower and likely does not have the sub base and top level pavement construction which a "standard public street" would have. It is a size commonly called a "carriage road" by developers and towns in New York State.

Because of its smaller size and construction, fourteen feet across as opposed to the two lane road or the standard twenty-four feet identified in the Concept Plan submitted by Mr. Walrath, our "carriage road" can not handle large site development construction trucks, trailers and/or bulldozers. In a recent home construction with access to Schoharie Plank Rd West, the builder left the construction equipment trailer on the road which caused the residents to have to steer our vehicles across portions of our neighbors yards to get by the trailer. If an emergency vehicle, especially a fire truck, needed to travel down our street during the day long storage of the construction equipment on the road, it would have been a real challenge to get around the trailer. Our street is so narrow, that passing cars must go very slow so not to hit each other. Additionally, after construction is completed, it would be near impossible for a large emergency vehicle to turn onto the shared driveway proposed in the Concept Plan between 115 and 117 Schoharie Plank Rd West.

The children who live on our "carriage road" ride their bikes, scooters and walk on the street daily. Additionally, hundreds of Altamont residents and families take leisurely walks along Schoharie Plank Rd West and cross the pedestrian bridge to Euclid and other village streets. It is very common for vehicles traveling down our road to go very



slow to accommodate the walkers on the pavement as there are no sidewalks. This regular ability to utilize the road would be significantly impacted if large construction trucks and equipment were to be driving down our "carriage road" early morning to late afternoon during the long construction period of the proposed development.

#### Village Infrastructure

The water supply line along Schoharie Plank Rd West has experienced a number of breakdowns over the last few years including two major main water breaks. Has the Village's engineers performed an analysis of the size, condition and additional volume requirements the proposed development would have on the Village's water and sewer infrastructures? What would be the impact on our water supply?

#### Storm-water Runoff

If the ground elevation of the proposed development was to be raised above the current field elevations, then it's conceivable that during storm events, surface runoff could flow onto the backyards of the residents along Schoharie Plank Rd West. Has the Village's engineers reviewed the site plan design of the proposed development to ensure it meets NYSDEC standards for storm water runoff control? We understand a key factor of the State's regulations is that the release of storm water to the downstream environment not exceed the current (undeveloped) site's volume for a given storm event. It is very important to us as existing Village residents, that our property will not be impacted in any additional form from storm water runoff of the proposed development. We bring this particular point to your attention because the Concept Plan submitted by Mr Walrath does not identify any drainage mitigation efforts on the developers behalf.

#### Impact on Adjacent Properties

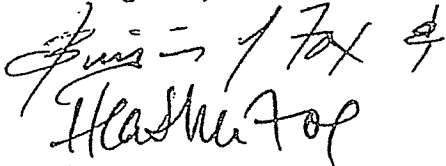
The access option provided in the Concept Plan identifies placing a shared driveway between 115 and 117 Schoharie Plank Rd West. Being intimately familiar with this piece of property, how does the developer plan to complete any construction without impacting the subjacent support that currently provides structural support for the residences at 115 and 117 Schoharie Plank Rd West? Additionally, how does the developer plan to complete this construction without impacting our property? We look forward to seeing an updated, accurate, to scale site plan addressing these concerns.

#### Alternative Access Option

We recommend the Village direct the developer to explore and utilize an alternative access route starting from Western Avenue for the construction of the proposed development if the project is satisfactorily meeting the other infrastructure impact concerns raised above. This alternative addresses our significant concerns related to the use of our small size "carriage road" by construction equipment, the ability for emergency vehicles to have the best access available given the road's size challenges, the capability of village infrastructure, the altering of a flood plane, and the impact on adjacent residences.

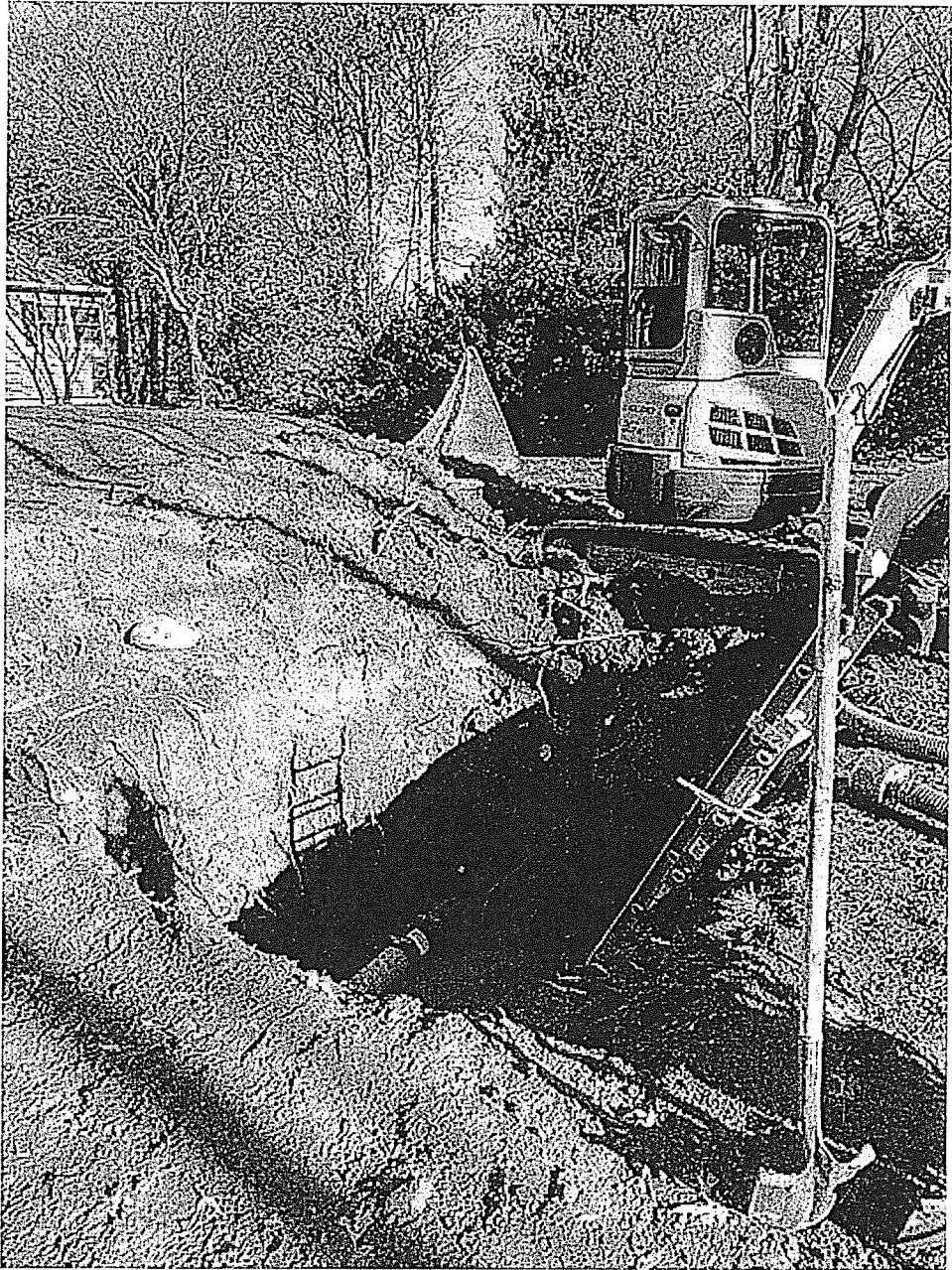
We welcome to meet with the Village's leadership to follow up on our concerns and comments before any decision is made to approve this project without addressing our comments.

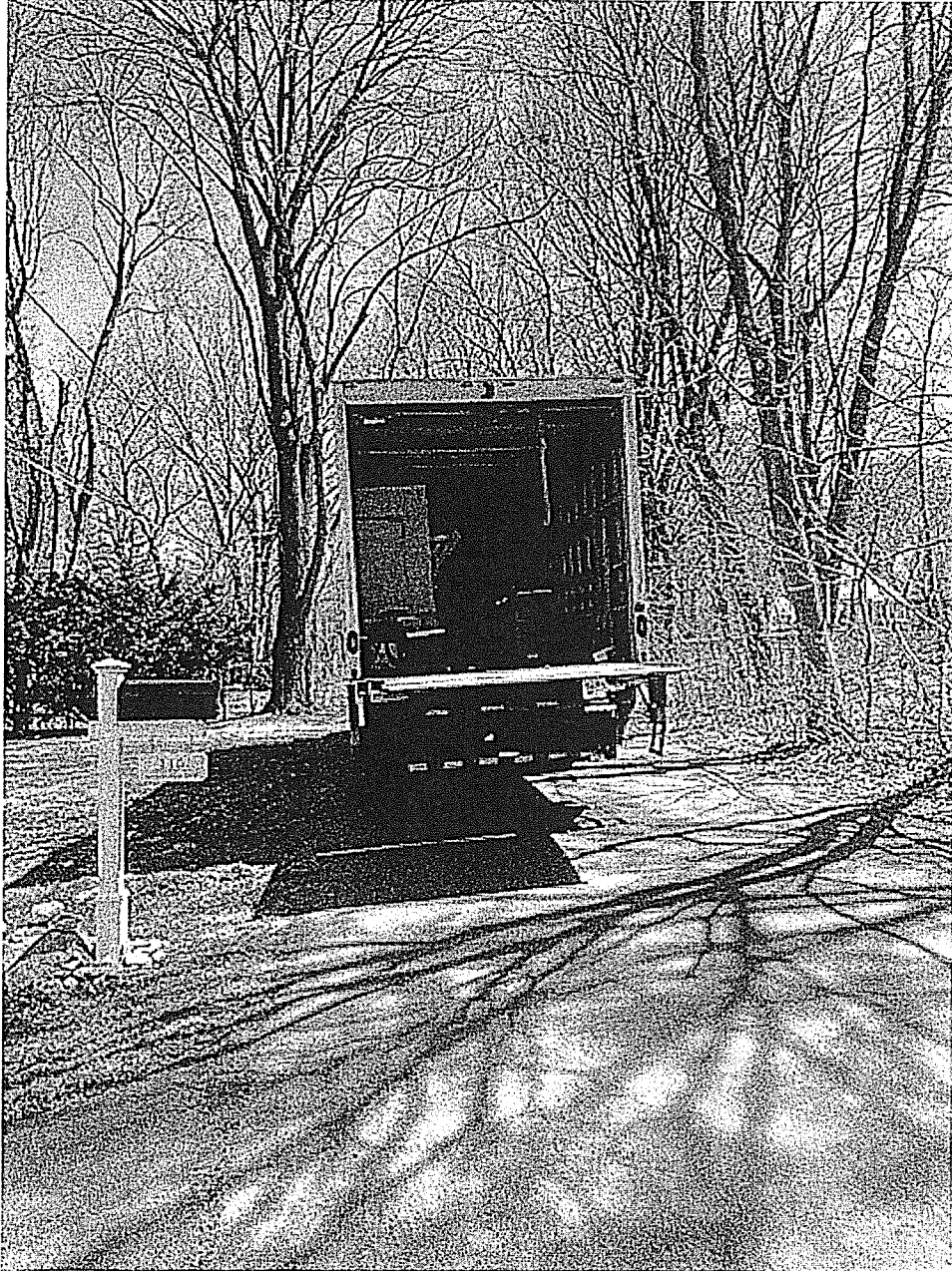
Your Neighbors,

Handwritten signatures of Benjamin J. Fox and Heather Fox. The signature for Benjamin J. Fox is written in a cursive style, and the signature for Heather Fox is also in cursive.

Benjamin J Fox and Heather Fox



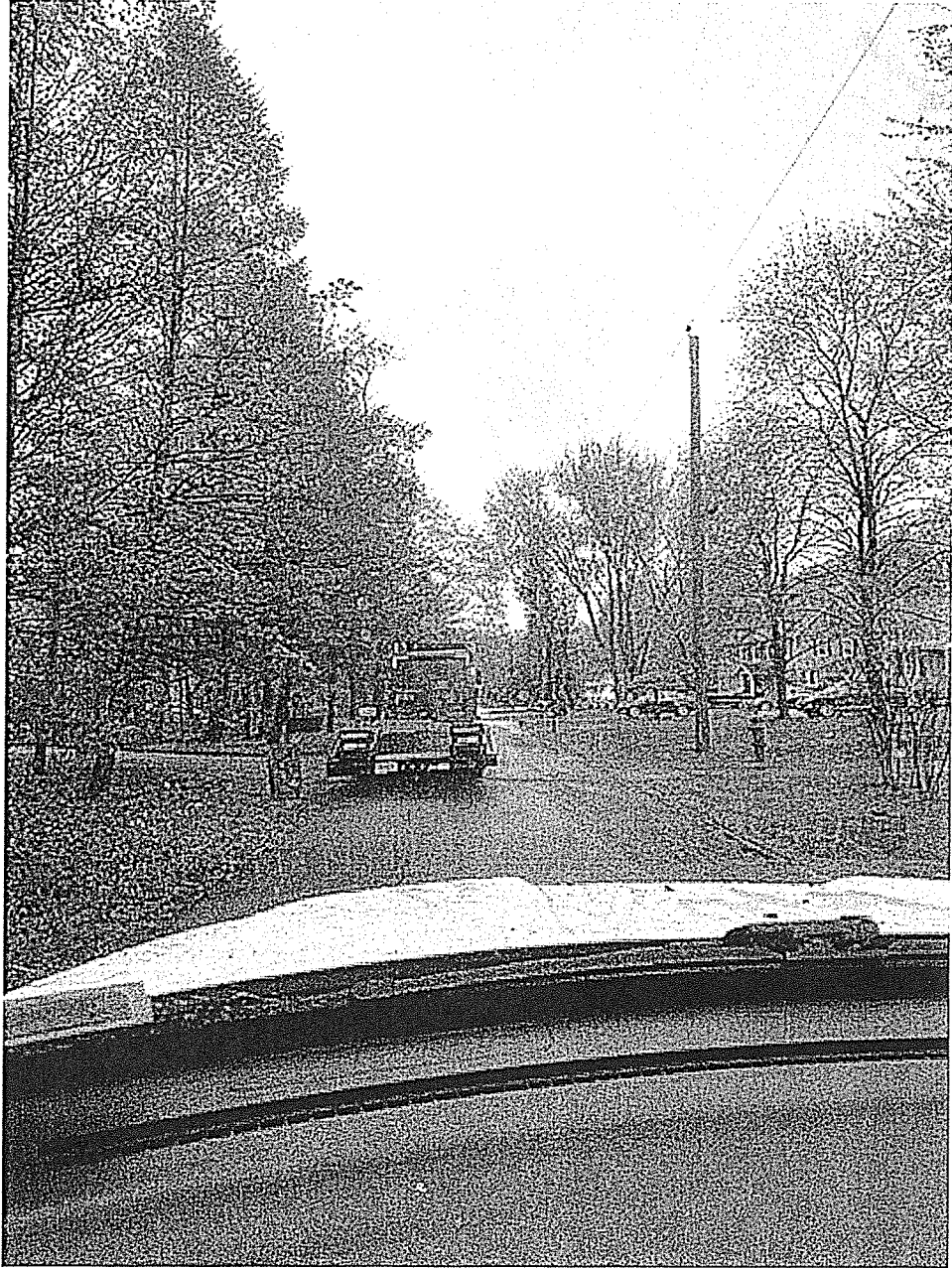














JOSEPH AND JAYA CONNORS  
6393 GUN CLUB ROAD  
ALTAMONT, NEW YORK 12009  
(518) 669-2517; (518) 669-0850

May 23, 2022 *3pm*

Village of Altamont Zoning Board of Appeals  
115 Main Street  
PO Box 643  
Altamont, New York 12009

Dear Members:

Thank you for this opportunity to share our opposition to the request of CM Fox Living Solutions for a significant variance which would allow its property identified as Tax Map #37.14-3-6.1 to be subdivided into 11 lots over 13 acres. Our objection focuses on the issue identified in the mailed notice we received, whether the Board should grant area variances to allow the creation of four(4) new keyhole lots with approximately 16 feet of road frontage on Western Avenue. We reserve the opportunity to oppose other parts of the subdivision proposal at a separate public hearing noticed for that purpose.<sup>1</sup>

## I. INTRODUCTION

We own and reside at 6393 Gun Club Road, adjacent to the proposed subdivision. The Guilderland/Village of Altamont town line passes through our property. We pay both Town and Village taxes and utilities. We are glad to be active in Altamont life, including being members of Altamont Community Tradition. The village's small friendly size and its rural country setting were important to us when we moved here several years ago and they remain so today.

Our 5.6 acres property currently has unobstructed views of the Helderberg Escarpment. We enjoy the abundant wildlife that crosses through our country property and the adjacent property subject to the variance request. We have observed deer, opossum, racoons, turkey, fox, and coyote on both properties, as well as an abundance of other birds, including Bluebirds and Indigo Buntings. Significantly, bats, including what we believe from their appearance to be endangered Northern long-eared bats, are frequently seen flying over both properties. We walk our property mindful that it and its adjacent property are part of lands which were stewarded by Native Americans from the Mohican and Mohawk tribes. We also report based on personal observations that water often pools throughout the subject property, year round. The property is consistently muddy, with footprints of the wildlife who currently call it home.

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<sup>1</sup> For example, the applicant has not applied for a variance that would allow for multiple entrances to subdivision homes, in excess of the two entrances allowed by Village Zoning Law. Although the application for final plot approval cannot be approved by the Board without such a variance and other variances applications, the applicant has not sought them and they are not thus not currently before the Board.

Proposed Lots 1 and 2 and 3 and the referenced four- bedroom houses the applicant developer plans to build on them, will directly adversely impact our enjoyment from and value of our property. Indeed, any backyard lights from houses on Lots 1 and 2 will likely shine directly into our bedroom and living room.

Our objections to the proposed variance should not be dismissed as a literal “Not In Our Backyard” concern. Rather, it is founded in well established legal precedent which balances the interests of adjoining neighbors, expecting them to enjoy their properties while respecting the limitations imposed on land use by law. The requirements discussed below are not new, they were present when CM Fox Living Solutions , a sophisticated buyer, purchased the property adjacent to our property. They did so knowing that its residential use was limited by existing zoning and environmental laws and regulations. It would be unreasonable and set a dangerous and unfair precedent to allow a substantial variance from these requirements to allow a preferred but unauthorized use of the subject property. We respectfully request that you exercise your administrative role in an objective manner and conclude that there is insufficient evidence to support the variance requested.

## II. PROCEDURAL HISTORY

We appreciate the opportunity to actively participate in the May 22, 2023 public hearing for the first time to share our concerns concerning the variances application before the Board. On or about May 12, 2023 we received notice of this public hearing via a letter mailed to our home. We understand that the Board has engaged in previous discussions with the developer applicant, CM Fox Living Solutions, LLC on September 27, 2022, January 4, 2023, March 28, 2023. The public was not allowed to participate in these “hearings.” In the interests of a complete record of the May 22, 2023 public hearing we request that the video recordings and transcripts of the September 27, January 4, and March 28, 2023 Board meetings be preserved and made part of the record at this hearing.

These prior meetings indicate that the developer applicant at first conceded that it needed a variance for the keyhole access to Lots 5, 6, 7, and 8 on Schoharie Plank Road, but no longer seeks this variance following private line adjustments deals with landowners. The developer applicant still seeks a variance which would allow for only 16 feet of road frontage for keyhole lots 1, 2, and 3 on Western Avenue, almost half of that required by the Village Zoning Law. The Board Chair characterized this as a request for a “significant variance.” In past appearances before the Board, the developer applicant also promised a 20 to 25 foot buffer between the new houses and the houses on Schoharie Plank Road, with Board members also suggesting a no cut zone. The Board shared that an independent Village engineering plan was necessary to consider the proposal.<sup>2</sup> The Board was concerned about the width of the access road/driveway in light of safety planning and the size of emergency (fire) vehicles and snow removal vehicles. A Board Member suggested that a crosswalk to connect the new proposed subdivision to the existing sidewalk on Western Avenue might be appropriate. The applicant developer promised to provide a sight assessment evaluation from the proposed entrance road/shared driveways in response to concerns raised by the Board.

Significant concern and questions were raised concerning historic flooding on Schoharie Plank Road. A Board Member inquired, “Where is the water going to go?, ” and “How do we maintain existing

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<sup>2</sup> Such a plan, if completed, has not been made available to the public in connection with the scheduled May 23, 2023 hearing.

flows?" The applicant developer promised groundwater testing to assess the level of the water table in order to properly plan for stormwater impacts. A Board Member suggested individual stormwater containment systems as opposed to a general area that might be prone to cattail growth.

Finally, one Board Member pointed out that Guilderland's noise ordinance should be followed; it prohibits work on weekends and limits it to 7:00 a.m. to 6:00 p.m. on weekdays, while another reminded the applicant developer that light nuisance would also be a part of the Board's consideration.

In light of the Board's growing concerns, the Applicant Developer responded that "the only other option" would be to increase the number of houses to "22 or 24 lots" in the project, and build a cul-de-sac which the Village would be responsible for maintaining. The Board encouraged the developer applicant to supplement the record, reminding it that it had the burden of showing that the requested variance was necessary and that the proposed project would meet all applicable laws, including a State Environmental Quality Review Act assessment that the project would have an overall negative impact.

## II. OVERVIEW OF THE LEGAL PARAMETERS FOR THE BOARD'S CONSIDERATION

The Village of Altamont Zoning Board of Appeals ("the Board") has the power, authority, and responsibility to approve or disapprove plats for subdivision within the Village of Altamont. Village Law §§315-1, 315-5. Before granting a request for a variance in support of a request of an application for subdivision, the Board must have evidence that the proposed subdivided land can be used safely for building purposes without: danger to health and safety or peril from fire, flood, erosion, or other menace; proper provision for stormwater drainage; insult to <sup>tenants</sup> ~~tenants~~ of the Village of Altamont Comprehensive Plan; harm, to the extent avoidable, to trees, flood courses, historic sites, and environmentally sensitive areas; or violation of the Zoning Law of the Village of Altamont. Village Law §§315-3, 315-21. Special regulations apply to any proposed subdivision of land into three or more lots, which by definition is a "Major Subdivision". Village Law Section 315-8.<sup>3</sup> While an applicant may request waiver of requirements for subdivision of its land, the Board may not act contrary to the intent of Village of Altamont Zoning Law or the State Environmental Quality Review Act (SEQRA). Village Law §315-23.

The Board's consideration of "Keyhole lots, properties that access the property behind another fronting the street" must comply with Chapter 355 of the Village of Altamont Zoning Law. Village Law §315-27. A keyhole strip leading from the road to another property must be at least 30 feet wide. Zoning Law 355-5. The Village also requires 30' of frontage for properties accessed in a subdivision by a keyhole lot. The New York State Fire Code requires unobstructed access width of 20 feet, exclusive of shoulders, for fire apparatus access. New York State Fire Code §503.2.1. The Village's Fire Code Official can require greater width if necessary for adequate fire or rescue operations, consistent with public safety planning. New York State Fire Code §503.2.2. The Fire Code Official, presumably the Chief of the Department, also has authority to determine the required turning radius for a "fire apparatus access road."<sup>4</sup>

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<sup>3</sup> Some parts of the pending application for a variance in support of approval of the subdivision incorrectly refers to the proposal as one for a "Minor Subdivision, " one containing not more than two lots.

<sup>4</sup> Pursuant to Section 202 of the Fire Code, a fire apparatus access road is "a road that provides fire apparatus access from a fire station to a facility, building, or portion thereof. This is a general term inclusive of all other terms such as fire lane, public street, private street, parking lot lane and access roadway."

The Board, when considering an application for a subdivision of land must consider whether the proposed subdivision's "circulation system," including streets, sidewalks, and pedestrianways meet specific standards. A "street, private" is defined by the Village Law as "a private thoroughfare or right-of-way, dedicated or deeded for use as such, which provides access to abutting properties from a public street." Village Law §315-8. Private streets such as the two proposed in the subdivision application, one to allow access via Western Avenue to three lots (#1, 2, 3), and the other to connect four lots (#5,6,7,8), must have continuous sidewalks at least five feet wide. Streets must conform to the Comprehensive Plan and have adequate access for firefighting, snow removal, and other maintenance equipment. Shade trees are required along each side of all streets, public or private, ten feet from the sidewalk.<sup>5</sup>

The Village Zoning Law also instructs that subdivision proposals for more than two entrances onto public roads shall be discouraged if they unnecessarily disrupt traffic flow or unduly impact the environment. Zoning Law §355-27(F)(1)(b).

A stormwater prevention plan (SWPPP) consistent with the requirements of Chapter 308 and Chapter 355 is required for any preliminary or final subdivision plat approval. Village Law, Chapter 315. All activities subject to review by the Board shall be reviewed the Village's designated Stormwater Management Office to determine compliance with the requirements of Chapter 308 of the Village Law pertaining to Stormwater Management. This process, which, at the Board's discretion, may include review by a professional engineer to meet all applicable standards, addresses ways in which to minimize stormwater rates and volumes in the public interest to minimize threats public health and safety. It includes Program Assessment, Record Keeping, Reporting and Certification Requirements in conformance with the requirements set forth in the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges., Permit No. GP-0-15-003, issued pursuant to Article 17, Titles 7, 8, and Article 70 of the Environmental Conservation Law.

### III. OPPOSITION TO REQUESTED VARIANCE

#### A. In Their Current Version Before The Board, The Requested Variances Will Produce An Undesirable Change In the Character of The Neighborhood and A Detriment To Nearby Properties.

The surrounding neighborhood to the adjacent property, especially along its Northern perimeter is characterized by single family homes on large lots of several acres. Consistent with the rural nature and country setting, houses are spread apart. The proposal will add eleven houses in a density profile which is inconsistent with the complexion of the rest of the neighborhood. Many of the houses on Gun Club Road or Marion Court which border the proposed project are multiple acre country lots with one home. The border between Guilderland and Altamont should not be riddled with so many new houses in such a small area. The developer's threat to increase the number of houses it will build is unavailing because that, too, would be inconsistent with the character of the neighborhood. *See Pecoraro v. Board of Appeals of the Town of Hempstead*, 2 N.Y. 3d 608, 781 N.Y.S.2d 234 (2004)(upholding denial of variance where the variance would have reduced the requires frontage from 55 feet to 40).

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<sup>5</sup> Of note, the Village Law does allow the Board to approve a "combined access drive" so that lots do not require access exclusively from a "major street." Village Law §315-27. Regardless of whether they are deemed a "private road" or a "combined access drive" these access pavements must be wide enough to meet safety and health concerns and consistent with the minimum widths set forth in the Fire Code.

B. The Applicant Has Alternative Methods Available To Achieve A Housing Subdivision or Obtain Alternative Value For His Property.

Denying the variance will not leave the applicant/developer without options concerning the property. The property can still be used under existing regulations for a reduced number of houses. Neighbors, including us, may be interested in purchasing undeveloped property which never was posted with public signs as being for sale. Finally, the property could be sold to Conservancy organizations to protect a green belt around the village, perhaps linking this property to existing hiking or recreational trails.

C. The Requested Variance Is Substantial, In Essence Requesting The Board To Rewrite Existing Code Standards.

This is not disputed. The request variance would require the Zoning Board to in effect rewrite its own regulations and reduce the frontage required for a keyhole lot in a subdivision in half.

D. The Proposed Variance Will Adversely Impact The Physical and Environmental Conditions In The Neighborhood.

As alluded to, existing wildlife will certainly suffer as a result of the proposed variance and its increased construction. Neighbors have also raised significant concerns about stormwater management, traffic safety, and lighting nuisance. We walk in the area frequently and have serious concerns about pedestrian safety on the streets which are in the proposal's immediate area. Especially with the nearby draw of Bozenkill Park, the Board needs to protect the interests of children who might be walking from the new development to the park. We reasonably fear that without adequate sidewalks, this is a disaster accident waiting to happen. Significant concerns have also been raised concerning the access abilities of emergency and snow removal vehicles to homes in the proposed subdivision. There is sufficient reason that the property could contain items of archeological and cultural significance, other such items having been found in our region. The applicant developer has failed to meet its burden by answering these concerns, instead, at best, repeatedly promising in its May 9, 2023 letter to the Board that these important questions will be answered "upon variance approval." See Responses to Request #5, 6, 9, 11, 14, 15, 16, 20, 21.

E. The Applicant's Obstacle In Subdividing His Property For Development of Eleven Lots Is Self-Created.

The applicant developer knew about the zoning restriction and limits on keyhole lots when it purchased the property. It cannot reasonable expect the Board to simply change its own regulations and allow additional housing with only 16 feet as opposed to the required 30 feet of frontage. The resulting damage to the neighborhood and community from such an ill- advised decision would be great as would the public's faith in the objectivity of the Board in exercising its administrative function.

#### IV. ALTERNATIVE POSITION

For all the reasons discussed above, the Board should deny the requested variance before it. In the unlikely event that the Board grants the variance and this project proceeds, we respectfully request that the Board direct the applicant to mediate the damage to our property and similarly situated

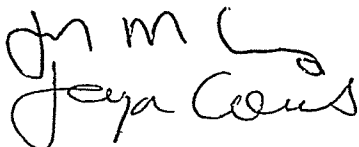
properties by constructing a berm along the Northern borders of the project, with conifer evergreen trees planted on top to protect our view from this new construction.<sup>6</sup>

The Board should also require the applicant to complete a complete Stormwater Abatement Plan which includes record keeping and post construction monitoring, as well as an Archeological Assessment of the property, especially for protocols for identifying and protecting artifacts of its indigenous stewards. The Board should require the applicant to provide a factual basis for its estimate that less than 5 acres of soil will be disturbed in the proposed construction process.

Consistent with reciprocal practice, the Guilderland Zoning Board should be afforded the opportunity to consider the implications of this variance proposal on its community, and Albany County and the New York State DEC should be involved in a completing an environmental impact statement concerning this proposal, with special attention to the wellbeing of the endangered log-eared bats who thrive on the property.

Thank you for your consideration of these comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jm M Connors". The signature is written in a cursive, somewhat stylized font.

Joseph M. Connors  
Jaya Balu Connors

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<sup>6</sup> The existing tree line along our property is insufficient for this purpose. In the first instance, there are no evergreens to protect us in the Winter when the leaves fall off our existing trees. Further, many of the existing trees are dying and will not provide the privacy barrier needed to ameliorate some of the impact of this project.

May 23, 2023

Altamont Zoning Board of Appeals  
115 Main St.  
Altamont, NY 12009

**Letter of Concern for Proposed Creation of 4 Keyhole Lots**

I'm writing to voice my concern on the proposed variance request to create 4 new keyhole lots by CM Fox Living Solutions.

1. One of the Village of Altamont's (the Village) water sources is located on Gun Club Rd, approximately 1,000 feet from the proposed site and approximately 50 feet from a water source that passes within 200 feet of the proposed building sites. The Village of Altamont's Annual Drinking Water Quality Report for 2021 states that:

*"...The aquifer that Altamont draws its water from is considered a high yield aquifer. Contaminants, if present, can move relatively quickly in high yield aquifers. Therefore, this well has been assigned a high sensitivity rating..."*

Accompanying the variance application was a report from Stephen P Walrath, L.S. Point 19 of this report states:

*"Site was evaluated for wetlands by William H. Smart, P.E. in October 2022. No wetlands were found on the project site."*

This says nothing about the environmental impact of stormwater runoff from the proposed sites or the impact that it will have on local water sources and tributaries. Has the property owner, proposed builder, and requestor of the variance conducted an independent water study to determine the impact that this variance will impact the Village's water source? Has the Village of Altamont Zoning Board of Appeals (ZBA) properly reviewed what effects new construction runoff, changes in landscape and grade will have on an already at-risk water source?

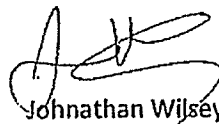
2. According to the Environmental Protection Agency, radon is an odorless, invisible, radioactive gas naturally released from rocks, soil, and water. Radon can get into homes and buildings through small cracks or holes and build up in the air. Radon is the leading environmental cause of any cancer. And is the second leading cause of lung cancer, after smoking<sup>2</sup>. Has the ZBA considered how new construction will change the environmental landscape, potentially clogging naturally occurring cracks and vents in the ground and forcing radon into current houses? Has the ZBA discussed with residents what sort of radon mitigation systems would be provided if hazardous levels of radon start to form inside homes located near the sites outlined in the proposed variance? If not, these must be explored before the approval of any variance.

3. There is a significant safety concern with the width of Schoharie Plank West and the increased traffic that will be using it with the approval of this variance. Has the Village and ZBA provided residents

with a comprehensive EMS servicing plan for Schoharie Plank Road West? While this may not be a governmental requirement, it will become a governmental issue if there is an emergency that can't be properly addressed and the Village and ZBA have not explored how that road's current use will change based on increase traffic. The Village has, by having a foot bridge that connects Schoharie Plank Road West and Euclid Avenue, made it abundantly clear that the Village encourages residents to use these two roads for walking. How does the Village plan on keeping residents safe while using these two roads for what the Village has encouraged to be their intended purpose? During the recent construction of a home on Schoharie Plank Road West, the street was blocked by large construction vehicles which compromised the safety of pedestrians and drivers on that road. How does the Village and ZBA plan on making sure that this is not another issue for this proposed variance?

This isn't just a few new homes going up in a vacant field. This is a significant development of new construction which will directly impact local tributaries and the Village's water source, current residents, and our safety and well-being. I implore the Village and ZBA to thoroughly inspect and inquire about the long-term, unintended consequences of this development and not the potential increased tax revenue.

Sincerely,



Johnathan Wilsey  
12 Gregg Rd.  
Altamont, NY 12009

<sup>1</sup>[https://www.altamontvillage.org/sites/g/files/vyhlf246/f/uploads/annual\\_drinking\\_water\\_quality\\_report\\_2021.pdf](https://www.altamontvillage.org/sites/g/files/vyhlf246/f/uploads/annual_drinking_water_quality_report_2021.pdf)

<sup>2</sup> <https://www.cdc.gov/nceh/features/protect-home-radon/index.html#:~:text=Radon%20is%20an%20odorless%2C%20invisible,radon%20can%20cause%20lung%20cancer.>



May 23, 2023

Altamont Zoning Board of Appeals  
115 Main St.  
Altamont, NY 12009

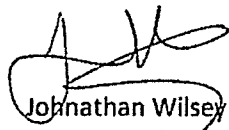
**Letter of Support for Request for Area Variance by Mark Fanuele**

I support Mark Fanuele parking his trailer at his home on 36 Sanford Place. Based on the minutes from the Altamont Zoning Board of appeals (ZBA) from April 25, 2023, it looks like Mark has received support from his neighbors for the trailer. I think that in general, support from the people whom you share a property line with should be considered most when approving a variance like this (non-far reaching environmental impact). It seems like Mark is a responsible property owner and an avid outdoorsman and because of this, should be able to use his property safely and securely as he sees fit.

I'd also like to take a moment to voice my opinion of support for Chair Hext's comments that this will set precedence for all future applications of this nature going forward. Chair Hext said: "Are we setting precedent here for the next person that comes before us that has a scrapper trailer or has an RV that's falling apart..." and the answer is yes, unless the ZBA provides clear, easy-to-understand guidelines for trailers and RVs. I hope that whatever the ZBA does, it would be consistent with future decisions and not on an ad-hoc basis. "One-off" approvals are what creates divide among communities, fosters the fear of inequitable governing, and furthers the sentiment of "no-confidence" in governmental organizations. In my opinion, being fair and being consistent is what this is about.

I've had three conversations about village residents parking trailers for private use on their property, two of those conversations were with members of this ZBA (one current and one former) and one with a long-time village resident. The consensus was that the ZBA does not approve property variances for trailers under any circumstances because of the fear of setting precedence, which is why I've never submitted a request for variance. If it's the ZBA's desire to slowly introduce trailers into the community landscape (which I vigorously support), it might be worth the village offering resident permits for recreational trailers based on season of use (and attaching a fee to the permit<sup>1</sup>). Clear and concise guideline could be drafted (ie: trailer condition, maximum length, color scheme/patterns, open vs. closed, non-commercial use, etc.). I'd be happy to share my ideas on this topic if requested.

Sincerely,

  
Johnathan Wilsey  
12 Gregg Rd.  
Altamont, NY 12009

<sup>1</sup>I recognize that the ZBA may not be the decision-making body for this, but I'm hopeful that the ZBA might facilitate a discussion with the proper channels on this topic.

RECEIVED

June 1, 2023

JUN 06 2023

Village of Hamont

Dear Zoning Board Members,

I will be unable to attend the June 28, 2023 meeting in person so I am writing to express my concerns regarding the variances being requested for the development of land bordered by Western Avenue and Schoharie Plank Road West, sitting behind existing residences.

We have established zoning ordinances defined to protect the community's various assets and people's investments. These regulate types of businesses and their locations, set back definitions, road and sidewalk dimensions and various other criteria. Much of this zoning is to protect existing properties and to maintain both the visual and infrastructure aspects. Development is to adhere to the existing zoning criteria and definitions. Variances should not be granted on weak or self-centered objectives without a very cautious reflection on the impact to the immediate surroundings, adjoining owners, or the village's long-term plannings and existing infrastructure capacities. Once a variance is granted it provides a basis for future requests to be approved regardless of potential negative impacts as voiced when a variance is granted.

We are now confronted with a local developer who purchased land to develop. He went into that purchase transaction knowing and prior experience with the current existing local zoning and restrictions. And now after purchase he is applying for a variance in order to maximize his return on investment. Sort of a cart before the horse situation.

Because the existing property boundaries do not meet existing requirements to establish a street (or road) due to existing boundary (width) size the developer is in essence attempting to circumvent those defined zoning limitations by calling a street a driveway and allowing multiple dwellings sole access by on that one very narrow parcel.

Now I do not know about everyone else in the village, but I have observed that it is rare for three people to continually agree to anything, especially when it comes to money and maintaining one common resource. Such as a driveway. As maintenance is impacted and declines there would be a negative impact to the properties adjoining that narrow strip of land. Damages will most likely be incurred and expenses built up.

I urge the request to allow a common driveway (I really want to call it a street) be denied. In future years there will be expenses to others beyond those home owners sharing that common drive, either by the adjoining property owners or the village, that may end up accepting an *additional* variance and allow that "driveway" be transferred as a street and the village have to maintain it.

There is an existing simple solution to all of this and the concerns voiced by others. Let the free market forces take over. Instead of granting the variance request so the developer maximizes profit on land he knew had predefined limitations, let him purchase one of the adjoining properties thereby allowing him to tear it down and widening the existing boundaries such that a proper street or road can be built to clearly defined standards. Sure it will cost him more. That is not my or the villages concern. A second solution would be to require a formal Home Owners Association established to maintain the shared property and infrastructure. That latter should be written to protect the village and neighbors.

I can not fault the developer for attempting to do this build out as inexpensively as possible. But it should not fall upon the entire village to compromise at its expense for his gain.

Respectfully,  
Sam F Crosby  
cc: Altamont Enterprise