

Village of Altamont Zoning Board of Appeals
Regular Meeting
August 22, 2023

Deb Hext, Chairperson
Danny Ramirez, Member
Barbara Muhlfelder, Member
Simon Litten, Member
Robert Freeman, Member
James Sullivan, Member
Andrea Witham, Member

Gary Goss, Building Inspector/Code Enforcer
Attorney Clarke for Village
Ginger Hannah, Secretary
Tresa Matulewicz, Board Liaison (absent)
Jeff Moller, DPW Superintendent (absent)
Paul Miller, Fire Chief

Applicants:

Steve Walrath, Land Surveyor for CM Fox
Chris and Rebecca Wolff
Darrell and Patty Doak
Robert Spring

Guests: 11

Chair Hext: Good evening, everyone. Welcome to the Village of Altamont ZBA meeting. Exits are right over here, over there, and in the back. It is Tuesday, August 22, 2023, at 7:00 PM. For the record, both the audio and video portions of this meeting will be recorded. My name is Deborah Hext. I'm the ZBA Chair. Would each Board member now introduce themselves, starting with Danny, please? The Board Members introduced themselves as follows: Danny Ramirez, Barb Muhlfelder, Andrea Witham, Attorney Clarke, James Sullivan, Simon Litten, and Robert Freeman.

Chair Hext: Thank you. Also representing the Village tonight, we have Ginger Hannah, our ZBA Secretary, and Gary Goss, our building inspector and code enforcer. Just a little note on the agenda item for tonight. Item number one was specified as a public hearing. However, the public hearing was closed last month on the CM Fox subdivision, so there will be no opportunity for public comment on that particular item.

Speaker, Joseph Connors: I would like to be heard on that issue, if I may?

Chair Hext: I'm sorry?

Speaker, Joseph Connors: I'd like to be heard on whether or not there should be a right to be heard [inaudible] effective notice if this was going to be a continuation of the public hearing. May I do so?

Chair Hext: Are you Mr. Connors?

Speaker, Joseph Connors: Yes.

Chair Hext: Okay. We've received your email. We've read your letter that came in today. That came in past the time that it is due to be officially recognized for this meeting. There will be a public hearing when it comes down to the subdivision. It's totally separate from this, which is for the variances. Unfortunately, there's really, at this point, the letter coming in today, and the public hearing being closed last month.

We have read your letter. A couple of the items on the letter, the first one, when you asked if we notified the Town of Guilderland that is not a requirement for an area variance. So no, we did not. They will be notified, as far as the full subdivision application. As far as SHPO (State Historic Preservation Office) is concerned, they were notified, as far as being a coordinated review, and we've not heard back from them.

Speaker, Joseph Connors: May I be heard?

Attorney Clarke: This-

Speaker, Joseph Connors: ... issue of my right to be heard. I won't get into merit. My position here is that there were-

Attorney Clarke: Just a minute. If we do allow you to speak, it would be up here, but wait a second. This wasn't the first public hearing. This was open for two months. I do believe you had an opportunity to speak during the public hearing, so it's not necessarily an issue of whether or not we've given ample time to allow the public to make a comment.

The transcript clearly stated that there was a motion to close the public hearing at the last meeting, and it was closed. That's my position. It would be up to the Chair whether or not to hear any comments, but it has been closed.

Speaker, Joseph Connors: In the interim, the Board submitted draft proposal, which the public hasn't had a chance to comment on. I think it's a good process. It's a process encouraged by DEC and the state when there's going to be a finding that there'd be a draft to the public, and public given the chance to comment on that draft, so that we can make a fair decision with different perspectives.

Chair Hext: Which draft are you talking about?

Speaker, Joseph Connors: The draft finding of whether or not there's significant impacts on the environment, and support [inaudible 4:31] the findings and statement.

Chair Hext: You're talking about SEQRA A determination?

Speaker, Joseph Connors: Yes. That was new. That was since the last meeting. There's been no public opportunity to comment on that, and I understand that's going to be considered tonight. There should be that opportunity. In addition, what I want to do is present argument. I'm not going to be presenting any new evidence.

The fact that, on the agenda to this meeting, the opportunity for a continuation, at least for argument, should be allowed. I wasn't aware, and I'm not sure if it's codified anywhere, that any new materials need to be submitted by a certain time. That was never a part of any-

Chair Hext: It is on our website.

Secretary Ginger Hannah: It's part of the meeting procedures that were approved by the Board when this Board started, and from the two previous. It's part of the record that material that need to be submitted have to be submitted to [inaudible 5:39]

Mr. Connors: Okay. Didn't see that, and I've looked through your webpage. I don't think that's on the webpage. [inaudible] If that's your practice, there should be public notice.

Chair Hext: There will be an opportunity, again, to speak, when the public hearing is noticed for the overall subdivision.

Mr. Connors: But I'd like to speak, on the question, the argument on the variances, and the approval of the draft finding statements, and notice of determination. I think that's consistent of what's required under SEQRA, the New York State environmental law. Just fairness. Why not give somebody a chance to comment on new information the Board has presented since the last year? It's not submitting new evidence. It's submitting arguments about why this is heading down a path that isn't considering of the appropriate factors. I'd like to be heard on that.

Board Member James Sullivan: Didn't we go over what was going to be contained in our draft two meetings ago, at the previous public hearing? That would've been the point to bring those things up.

Attorney Clarke: The SEQRA findings are not new. That's based on the Part 2 review that was done during the public hearing. It was started at the June meeting, continued at the July meeting. The SEQRA itself does not require a public hearing. The public hearing was open for the area variances.

Mr. Connors: This is the first time that the public has seen anything in writing about the proposed draft finding.

Attorney Clarke: And I'm just saying that the SEQRA regulations do not require any sort of public hearing on that.

Mr. Connors: Okay.

Chair Hext: You will have an opportunity to speak at the next public hearing.

Mr. Connors: I'd like to be heard, have an opportunity to be heard on the variance. There's three different variances pending.

Chair Hext: You've had an opportunity to speak in the past. Do you have anything new to add, that you didn't speak to in the past, other than what I've just addressed?

Mr. Connors: Yes, and a lot of it is based on the new material that the ZBA included with the Agenda for tonight's meeting.

Chair Hext: Then we will consider that for the next meeting. We cannot allow a letter that came in today to be part of the public record till the next meeting.

Speaker from Audience: I'd like to hear him speak.

Second Speaker from Audience: Yeah, me too. I was going to say though, isn't it on the agenda, and you were just-

Chair Hext: It is, but the agenda was incorrect. If you look at the minutes from-

Speaker 2: He had no way of knowing that, is the point.

Chair Hext: If he looked... He said he's been reading the minutes. And reading everything. If he had read the minutes from the last meeting, it would've stated that the public hearing was closed.

Mr. Connors: Minutes from the last meeting haven't been included. There's a list that there to be approved at this meeting, but they weren't even included in the materials that were posted on your website.

Board Member Sullivan: I believe the video was up a week after the meeting.

Mr. Connors: Right, but the written minutes, it takes a while to go through. It's a lot more efficient and fair.

Board Member Bob Freeman: Well, basically, the written minutes are, actually, as per the video, so the video goes right along with the recording, and what's been...

Board Member Sullivan: The motion to close the public hearing was on page three of the minutes. So that's fairly... It's not too deep into the meeting to find that out.

Mr. Connors: You apparently have written minutes that the public doesn't have, at this point. What I would suggest, to avoid, because this will be an issue that I'll raise [inaudible]. Just a simple thing. I just want to be heard on new information. If you can't do it tonight, I would postpone a discussion of the variance, the lot adjustments, the SEQRA findings of determination, until there's a meeting where argument is allowed, the public, including myself, is allowed to speak. That was what was noted.

Chair Hext: If you want to come up, and have a couple points. You sent in a seven-page email. I don't think that the Board wants... We've read it. If you can hit your major points here, and your

major concerns, we'll give you a couple of minutes, but there are other applicants tonight. There are other public hearings tonight, and you've had two months to respond.

Mr. Connors: Okay, I appreciate that.

Chair Hext: Let's give you two minutes to voice your concerns. Please hit the ones that you want to hit.

Mr. Connors: Yeah, I don't think two minutes is fair or adequate, but I thank you for this opportunity.

Chair Hext: But Mr. Connors, letting you speak at all is beyond fair. We don't have to do that.

Mr. Connors: I respectfully disagree with that. First, thank you all for your service.

Chair Hext: I know who you are, but can you please just state your name and address.

Mr. Connors: Joseph Connors, 6393 Gun Club Road, property owner adjacent to the proposed subdivision, resident of Guilderland. The Village town line crosses through our backyard, so we have property both in the Village and Guilderland. Thank you all for your time, and allowing me this opportunity. Any remarks I made are made with good intentions, in the spirit of a fair process, a check on assumptions that are being made, efficiency, and a way to avoid, hopefully, future costs down the road.

I've addressed why it's important to be heard, based on new information I submitted this afternoon, shortly after noon, my letter. I would ask that that be made part of the record, and considered before any findings be made concerning the variance applications, the subplot revision applications, or the SEQRA proposed findings. Those proposed findings were distributed for the first time, with the notice of this meeting.

My concerns are basically some procedural grounds. I'm not going to read my letter. You have it. I think Guilderland should be involved. Here you're saying they're not required to be involved, but be consistent. Guilderland, when it was proposing solar panels, down by the golf course, consulted Altamont. That's what good neighbors do.

Chair Hext: That's because there's a 500 feet water line.

Mr. Connors: Well, I think it's being good neighbors. I'm suggesting, even if you're not required to do it, it's a good thing to do for a coordinated review under SEQRA.

Chair Hext: They will be under, for the subdivision.

Mr. Connors: Well, I think before you make any SEQRA determinations, or make any considerations on whether or not the variance should proceed, you should consult them. Also, I think there's a big fundamental mistake that's being made, about whether or not this is a class one SEQRA action. That's crucial into whether or not you can attach conditions to any approvals that you might make. It should classify as a class one SEQRA for all the reasons set forth in my letter.

Finally, or not finally, but in addition, there is insufficient evidence right now to make the determination that you need to make. You need to be able to tell the public here the significant setting, probability, occurrence, duration, irreversibility, geographic scope, magnitude, number of people affected, of all the several environmental impacts outlined in my letter, and outlined previously by the public.

I invite you to do so today. Not just say that you considered all those things, but to show, specifically, where in the record, all those factors are documented. They're not. There's not enough evidence in the record for you to support negative SEQRA determination. I also, again, state that the record that you create for potential review down the road should include written minutes. We don't have them from the last meeting. You apparently have them. The public doesn't have those.

I raised something, and it wasn't easy for me to do it, but I did it hoping that you'd understand that I do it with good intentions, that throughout these proceedings, there's been statements made by Board members that raised issues of partiality, concerning that this will be great and as good as any previous projects done by Mr. Miller and CM Fox. Statements that, of course, they can't just say no to somebody that's coming in for a variance. Statements that call into question the partiality of the Board. I would ask for you to clarify that for the public. There are other examples in my letter.

The other issue is the timeliness of any significance determination. I believe it's supposed to be made by law within 20 days of a declaration of the Board, as the lead agency. On the merits, this is the way I believe it should work under the law. If the proposal doesn't meet certain thresholds for a variance, there's no need to do a SEQRA assessment. The process should stop.

As I set forth in my letter, when you balance all the factors, and have specific information to consider all the factors... I don't think you do have enough information. You asked for it, but it was never provided. But when you balance the available information, it supports denying the variance. The variances are involving the frontage on Schoharie Plank. There's sort of a shell game going on, about a sale of property on Western Avenue, to allow required frontage that wouldn't otherwise be allowed for the proposed keyhole lot on Western Avenue.

In essence, you're being asked to condone that type of private sale towards a purpose that wouldn't otherwise be allowed under the existing code. There's also an issue about an excessive number of entrances and egress points associated with this subdivision. There's at least four, as outlined in my letter, which exceeds that allowed and there should be a variance for that. Moving on in the process-

Chair Hext: Okay. I'm going to have to say thank you. I think-

Mr. Connors: I have-

Chair Hext: I've given you enough time.

Mr. Connors: I have two more points to make. I'd like to be heard. You can shut me down if you want, but I'd like to be heard on two final points.

Chair Hext: Do you have something specific to the variances, or are you talking specifically to another subdivision that is proposed?

Mr. Connors: My points, so far, focused on the variances and the proposed SEQRA findings that the Board put out to the public without the opportunity to comment on them. As I said, you don't even need to get to the SEQRA part of this if it doesn't meet the variance requirements, which it doesn't under the record in this case. Even if it did meet the elements for variance, then you go on to the SEQRA factors, and look closer at the environmental impact.

This is a SEQRA level one determination, and it's clear under the law that if it is, I know that the Board switched the initial designation from level one to non-level or non-listed, but it really is a level one based on the record. That means that there can be no conditional approval allowed. Even setting that aside, when you look at all the factors, it's clear that there's going to be a significant impact of this project.

The proposed SEQRA findings don't even acknowledge everything that the public has brought to your attention. I did so, in my letter, there's over 10 different environmental impacts that I encourage you all to look at closely. Thank you for this opportunity, and I would ask that you deny the variance, deny the subplot adjustment applications, and reconsider your proposed SEQRA findings. Thank you.

Chair Hext: Okay. I don't know. Steve, do you have any rebuttal, or anything to clarify what Mr. Connors has just stated? I don't mean to put you on the spot, but-

Land Surveyor, Steve Walrath: That's fine. I'm Steve Walrath. I'm a land surveyor. I represent Troy Miller. I believe with your minutes, you have to approve the minutes of the last meeting tonight, before they become the public record.

Chair Hext: Correct.

Mr. Walrath: Yeah. I'd just like to clarify that, because that was brought up. Tonight, we're here for a variance for the four lots, for the frontage, so we can do one common driveway instead of put a public highway in. All the other comments have to do with the subdivision of the property, which will all be reviewed and addressed during the hearing, like you said, the public hearings for the subdivision itself with the engineering design and everything, and any environmental impacts will be mitigated at that point. Right now, it's just the variance is separate from the approval for the subdivision. I think tonight you're looking at the variance, so I guess I really don't have anything else to say.

Chair Hext: Thank you. I just want to read an email that came in today from our engineer. This is from our engineer, from Barton & Loguidice, discussing existing conditions in the right-of-way. (see attached email from B&L dated 8/22/23).

Basically, that's from our engineer, specific to whether or not West Schoharie Plank can handle additional traffic. Paul Miller, our Fire Chief, have you discussed the ingress and egress for emergency vehicles?

Fire Chief Paul Miller: Yes, we have.

Chair Hext: Is it okay?

Fire Chief Paul Miller: Yes.

Chair Hext: You're okay?

Fire Chief Miller: Yeah. The width of the driveway you're proposing is very, very adequate.

Chair Hext: Okay. You have no problem with the street itself getting two vehicles in or out of there?

Fire Chief Miller: You mean Schoharie Plank?

Chair Hext: Yeah.

Fire Chief Miller: Yeah. If it's his subdivision, we'd be down in there. There's a hydrant located near the subdivision, so it would, may create some blockages to Schoharie Plank, to the nine houses.

Chair Hext: Okay. Thank you. All right. With that, Hyde, do you have anything?

Attorney Hyde Clarke: Tonight, with consideration of the area variance, we should have a discussion on that first, because if the Board is going to deny the area variance request, then the SEQRA determination does not need to be made. I would like to have a detailed discussion of the area variance, and go through the factors. Based on that discussion, if there is a motion to deny, and that motion carries, then that will conclude a discussion on the application, and we do not have to go to SEQRA .

If that discussion seems that it's likely that the variance relief will be approved, then prior to a formal vote to approve the variance, we will then go through SEQRA . The draft findings are draft, there are areas that were raised as concern during our Part 2 review to have additional space for more discussion from this Board prior to adoption. With that, I'd ask the Board to deliberate on the variance request.

Chair Hext: Thank you.

Mr. Connors: Also, respectively, note that since

Board Member Danny Ramirez: May I ask you to step up to the microphone when the time is due? Mr. Connor?

Chair Hext: Not right now.

Board Member Ramirez: Not right now. When the time comes-

Mr. Connors: ... point of order. The [inaudible 26:19] point of order, and the email that was received today was just read into the record, but a letter received today by me has been denied.

Chair Hext: This is something from our engineer.

Mr. Connors: The public doesn't have the same right? Fairness. I'm asking you to reconsider, because that's going to render erroneous.

Chair Hext: I would like to give our Board an opportunity to debate without interruption from the public, please.

Mr. Connors: I'm just trying to save time, and make it more efficient.

Board Member Freeman: Sir, we also have other folks here tonight, too. They have a fair amount and ample time to come up here, and theirs is a public hearing, so if you could, please?

Mr. Connors: Thank you.

Board Member Freeman: Thank you.

Mr. Connors: It was a new issue. [inaudible]

Chair Hext: Okay. Board, what are we thinking going forward?

Attorney Clarke: There was a worksheet on the area variance factors that was provided in the materials. My recommendation would be to go through each factor, and have a discussion about the keyhole lot relief that's being requested, if the Chair wants to start with the first factor.

Chair Hext:

Okay. (1) Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties. What's everyone's thought on that?

Board Member Barbara Muhlfelder: I've got a few thoughts on that. I made a list today. I have concerns that the Johnson's and the Fox residences would become corner lots. There are a lot of children living on the street, and also in the Fox residence and walkers, bikers. The children, I believe, at the Fox residence are young, maybe 10 and under. Apparently, they ride their bikes, and they play in the woods, and there are a number of other children that join them. I don't think, personally, that the Johnsons or the Foxes really want to live on a corner lot. Again, that's my personal feeling.

There'd be no privacy in their backyards. You're going to have big garbage trucks going in there. I was concerned about the fire trucks with the two-way traffic, if you're getting fire trucks, ambulances through there; and I think also that these two families especially would be forced to make decisions regarding privacy fences, hedges. That's not fair. I think we really need to consider the effects on these, especially these two neighbors and the children.

Chair Hext: Thank you Barb. Simon?

Board Member Simon Litten: Well, I live on a corner lot and the edge of my house is 17 feet from the edge of Lark Street, and Lark Street gets an awful lot more traffic than this would. And we've had a lot of children on the street and that hasn't been a problem. But what I would like to hear is a little more clarification as to just what it is we're talking about. My understanding is that

our discussion was going to be limited to the variance of going from 30 feet for each keyhole lot to 16 feet.

Chair Hext: That's correct.

Board Member Litten: But are we talking about the entire impact of that keyhole lot on the character of the street?

Attorney Hyde Clark: With the amount of land that's there, two keyhole lots could be approved without a variance. This discussion is whether or not going from two to four would have an impact based on these questions.

Board Member Litten: So we are looking at the impact of essentially having four houses there instead of two houses on the character of this neighborhood.

Attorney Clarke: Correct.

Board Member Litten: Okay.

Chair Hext: Anyone else?

Board Member Sullivan: A lot of the concerns that we've heard and that some of us have brought up seem more to do with the subdivision and not to do at all with the variance and the concerns that I've heard can all be mitigated later in the process. So that's where I'm thinking right now.

Chair Hext: Anyone else? Again, we're still on number one.

Board Member Muhlfelder: A couple of other points that I'd like to make is that looking at the diagrams, the driveways are very, very close, especially the edge of the driveways to the Fox residence, and it looks like five feet. I don't know if that's correct or not. Very, very close and with the plowing coming through, are they going to be going on those two residences' property? Will the snow be put on the bridge, into the creek? Again, I feel there's probably going to be some damage to the Fox and the Johnson's residence with garbage trucks, big vehicles going in and out.

Board Member Sullivan: But I think the point is, respectfully, that those potentials would still exist if it was only two houses and that's the focus of our conversation is whether having four houses makes it more of an impact than having two houses.

Board Member Muhlfelder: I disagree.

Chair Hext: If it were two houses, they would still need to access the common driveway. There would still be trucks. There would still be garbage trucks. As it stands now, there's still garbage trucks. There's still delivery trucks.

Board Member Muhlfelder: Oh, exactly.

Chair Hext: And I guess what this is saying is would an undesirable change be produced in the character of a neighborhood?

Board Member Muhlfelder: Or detriment to nearby properties and I think the Foxes and the Johnsons are going to be greatly affected.

Chair Hext: If it were two homes, do you think it would be the same?

Board Member Muhlfelder: Yeah, I do.

Chair Hext: Okay.

Board Member Muhlfelder: I do.

Board Member Litten: How wide is the road going to be, the pavement? Do we know that?

Chair Hext: Which pavement?

Board Member Litten: The pavement that's of the common driveway.

Chair Hext: Was it 16 I believe? Or was it 20? Was it 16 or 20?

Fire Chief Miller: You've got to do 16 because it's only four lots.

Chair Hext: Is it 20 for New York State Fire Code, Gary?

Board Member Muhlfelder: Yes.

Code Enforcer Goss: I believe it is.

Board Member Muhlfelder: I've got the notes here. It is 20.

Chair Hext: Sorry Paul?

Fire Chief Miller: Read the exceptions in the regulations.

Chair Hext: I mean one thing that I would say is kind of playing off of what James said, if the variances go through, we can certainly have some conditions set forth about landscaping. There is a landscape plan. It does include evergreen trees and just regular trees. There's a no cut zone. At the last meeting, the no cut zone I questioned. I said, "Well, that's kind of good in summer, what's going to happen in the winter? So if you look at the landscape plan on the big... they have trees, they have other trees, but again, we have the right to request specifics from the applicant. Just like we did if you think of Stewart's, but again, this is why we discuss these things. Does anybody have anything else on number one?"

Board Member Litten: Yeah, I mean so if the street is 16 feet wide, that gives the nearest house between the house and the street, that gives I think 28 feet, which is...

Chair Hext: The side outback you're talking about?

Board Member Litten: Between the edge of the house and the street and the pavement.

Chair Hext: The common driveway.

Board Member Litten: Correct, where there are the garbage trucks or whatever, the delivery trucks and as I said, my house is 17 feet from Lark Street and after living there for 43 years, our house has never been damaged by any vehicles going down. There've been a few occasions where large trucks have hit branches, but it doesn't look to me like a safety issue.

Chair Hext: Andrea, Danny, anything on number one? Yeah, we can circle back if something comes up. Let's move on to number two for now: Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance. I think we already discussed they could do two and then they wouldn't need a variance. I don't know how they feel about that. He had proposed at one point in time making it a 23 home or something subdivision with everything a through street then coming onto West Schoharie Plank, but again, is there another feasible alternative? I believe the answer would be yes, but you're still going to have a common driveway, actually two common driveways then coming out onto West Schoharie Plank.

Board Member Ramirez: Well, would it be considered a common driveway? I'm sorry to circle back to the first item...

Chair Hext: No, you're right.

Board Member Ramirez: Or a street, a two-way street.

Chair Hext: It would be two driveways coming out onto West Schoharie Plank, just like the driveway...

Board Member Witham: You mean if they just did the two homes?

Chair Hext: Correct and then they wouldn't need a variance because then they'd have the proper frontage and everything else, but you'd still have two homes exiting and entering from West Schoharie Plank.

Board Member Ramirez: Okay, the other alternative is if it goes with the R20 I believe standardized ruling for that property, it could be a two-way street that comes in to Schoharie Plank Road and exits out Western Avenue and vice versa, and then however many homes they would propose to build on those properties. So there is an alternative feasibility, but it might impact that lot that's being used for the keyhole lots much more. Okay, so in my point on that particular one would be definitely a detriment to that street, which not that we're crossing that yet, that street would have to be rebuilt. It would not handle that traffic, I don't think so.

Chair Hext: So feasible, you're saying it would be a through street then, so anybody from Western Avenue going through could exit onto West Schoharie Plank and vice versa.

Board Member Ramirez: Or anybody in that development whatsoever, yeah.

Chair Hext: Or anybody, really? So is that feasible, I guess?

Board Member Ramirez: I'm just putting out that there's another feasibility. Okay, is it better? I don't think so. Okay, going back and I was putting thought to the character of the neighborhood or detriment to the properties on the first one - could be a detriment with, I wouldn't call it traffic. There's additional vehicles, but I'm not personally in favor of that much of a variance, okay? It's a considerable amount for four keyhole lots for each and every one for those driveways.

I know that the old print that might be even on the website shows a 12 foot driveway, but we have spoken to that. That would have to be 20 feet per se. I know that there was comment mentioned about other properties, but it was verbally quoted that there's going to be a berm behind these homes and they would be certain trees or not cuttings or conditions put on there, which can be part of the variance as well. I know it might add cost to the development as may be, but those are options that are on there. So I see a little detriment. I don't see a change in the character of the neighborhood because it's an R-20 zone. It could have more homes or less homes, but again, answering number two, there is an alternative.

Board Member Muhlfelder: I agree.

Chair Hext: Anyone else on number two? Danny, you already stated number three, that the variance is substantial. However, I'm not sure, I guess I keep going back to the feasibility of the alternative would be if they decided to do a two house lot there, they wouldn't need a variance, but then you would have two separate driveways coming out onto West Schoharie Plank. So I don't know how that is better, but it might be, but it might not be. It's hard to say. We don't have a crystal ball. What's everyone's thought on three?

Board Member Sullivan: I didn't see it as substantial. Again, focusing on whether two houses were going there. If the variance was granted having four, I didn't see that as a substantial change. I know Simon was referring to what's in the code for the frontage. I don't know where that number came from, how it was decided, but it doesn't seem substantial to have four houses exit through one driveway.

Chair Hext: I tend to agree. Again, we can set conditions, we could have them. We maybe could put signage up, watch for pedestrians. I know there's been a concern about that's where people come off the footbridge. Maybe we could ask for a Ballard there or something so no one could possibly go through there. Again, there are conditions that we can set forth if we decide to go forward. Anybody else on number three?

Board Member Litten: I would agree that I do not think it is a substantial impact.

Board Member Freeman: I would also agree with that and the reason why too is worrying about snow removable and everything like that is one of the main things, and I understand it, but

blocking off the footbridge and everything as far as snowplowing is concerned, especially by a private individual, you're not supposed to plow it across the road period. So it's all going to go the other way anyhow. So just throwing that in there.

Board Member Litten: But they do.

Board Member Freeman: I know they do.

Chair Hext: They do, but again, some conditions we can set forth. We already made a condition that they can't have construction vehicles on that.

Board Member Freeman: Exactly.

Chair Hext: But we're getting ahead of ourselves. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?

Board Member Muhlfelder: Yes.

Chair Hext: Potentially, it could. Would two homes have less of a potential? I keep going back to the two homes and seeing two driveways, which means there's two entrances and exits where people would have to be aware that someone's coming out of their driveway.

Board Member Witham:

I also feel like with the keyhole lots, people are more likely to be driving straight out and not backing out like you would back out of a driveway potentially. So slightly less dangerous.

Chair Hext: True.

Board Member Muhlfelder: I feel that the driveways should be on Western Avenue. I don't think there should be driveways into the keyhole. I think it can be done without disturbing the neighborhood, especially the two residences.

Chair Hext: So anybody else on number four, would the variance have an adverse impact on physical or environmental conditions in the neighborhood? One house could have that, so I'm not quite sure if we can answer that yes, because one house could have it. They did just build another house on that road by a private builder. I don't know if that's impacted anything.

Board Member Muhlfelder: But the access is not.

Chair Hext: It's on West Schoharie Plank.

Board Member Muhlfelder: Is it?

Chair Hext: Yes.

Board Member Muhlfelder: Okay.

Chair Hext: Yep. Anybody else on that one?

Board Member Sullivan: For number four, I just keep going back to if it was two versus four, I don't see a big difference on the potential impacts.

Chair Hext: Looking at the property as it exists now, it's where that common driveway would go is fairly overgrown. I mean really it's just woods and down trees and vines and everything else. We could require that be maintained and really could potentially add to the two homes on either side. You are impacted by what's around you. If you have a neighbor that lets their lawn grow and never does anything, it is going to impact your home as well. So if that area was cleaned up and beautified and made to look like one of our gardens in the Village, it could have a positive impact as well. That's just my opinion, I'm just kind of playing devil's advocate here.

Board Member Muhlfelder: Who would maintain it?

Chair Hext: The homeowners, we would require that. Well, we can do it. I hear you, Barb, I truly do. Okay, number five, whether the alleged difficulty was self-created?

Board Member Muhlfelder: I'd say yes, definitely.

Board Member Ramirez: Hands down, that's a yes. It could be one home built on that lot. He was accessing it to build homes behind. I was thinking about number four, I apologize for the delay.

Chair Hext: It's okay.

Board Member Ramirez: Would the variance have a high adverse effect on the physical condition. I don't believe on the environmental. I know everybody's concerned about the green space that's been there for many years, but a little bit on the physical and things change throughout. You can have everybody, a new family in every one of those homes and as the kids come of age and everybody suddenly has four cars in every driveway, that will change from time to time even with these homes. So a small change in the physical, I wouldn't call it adverse is my feeling.

Chair Hext: One thing to be considered, if any traffic study that's done, they're going to do a traffic study based on peak hours. They're not going to do a traffic study that says, "All right, we've got four homes going in. What's the overall impact every single day for 24 hours a day." They're going to do peak hours. Just like any street, my street, it's not as busy during the day, but from seven in the morning and then from five in the afternoon. So that's another consideration as we're talking about peak hours legally that we have to consider it that way. Does anybody want to circle back to anything else?

Board Member Litten: Yeah, this land, the Village had decided that this was suitable for residential development. So I recognize that West Schoharie Plank I think from what I've seen has got to be one of the nicest neighborhoods in the Village, and the houses are relatively close together. People can walk to the center of town. It just looks to me like a great neighborhood, but

that land behind it is zoned for residential development and were that to take place, were that development to take place, I think it's inevitable that there would be a degradation of life for the people on that street. However, the Village has decided that that should be developed as residential property. So I'm trying to reconcile these two directions and I think since the Village has decided that this is suitable for residential development, it looks like it could happen. And I think to the people on West Schoharie Plank, it would be a very unfortunate thing if that were to happen. No matter what conditions we put on it or whatever, but the Village wanted that to be residential property.

Chair Hext: So why do you think it would, let me phrase this correctly, why do you think it would be unfortunate? It could be fortunate, right?

Board Member Litten: I don't think so because right now, people are talking about children. People have this fairly large area for people to explore and play in. That would be gone, that would turn into lawns, which I kind of detest, just green wasteland. Right now, well, it's probably full of invasive species at least it's got some interest to it for kids and small animals. People have talked about small animals in there, but we need a place for people to live and more houses, more people, more kids in the local school, more business in the local stores, people have to live somewhere. We can't just nimby our way into some kind of isolation. So I think it's an unfortunate situation.

Chair Hext: It is certainly a difficult situation.

Board Member Litten: It's a difficult situation and I have a great deal of sympathy for the people who live in West Schoharie Plank and see this threat to their neighborhood. It's a very real threat, but somebody else owns that property and they have the right to put houses there.

Chair Hext: That's actually it in a nutshell.

Board Member Muhlfelder: I agree with Simon and I'm not opposed to the development. I agree as Simon said, the Village has deemed it's R-20. I am totally opposed to using Schoharie Plank, putting a road in there, to access houses that can be accessed off of Western. I think it would be a shame.

Chair Hext: Steve, can they...

Mr. Walrath: I'll come up to the mic again. Steve Walworth again. If two of the lots were redirected to Western Avenue, we would be needing variances on Western Avenue for the area variance for the keyhole lot width without putting a public highway through. One thing about back to the driveway with what Troy is proposing is the four houses with a common driveway. He can do two right now. He can do two with the common driveway. I think that the common driveway would still have to meet all the fire codes and everything. It'd still have to be the 16 feet. So you're going to have the same driveway no matter what, whether it's two houses or whether the variance is granted, and then you have four houses. Going - and Simon is talking about developing it - it's R20. If you wanted to max the thing out, you'd be at 24, 25 lots with a

public highway, which is much wider than the 16 feet to begin with, and you'd have more traffic going through there.

Chair Hext: And that would be a through street from West Schoharie-

Mr. Walrath: From West Schoharie to Western Avenue. If you look at it from a planning perspective, the Kilts property, when they were selling all of the lots along Schoharie Plank Road between the Foxes and the Johnsons, they left 65 feet, which lines right up with Euclid Avenue. From a planning perspective, that was intentional for a future street. There's no reason why somebody would leave 60 or 65 feet there because it's not even big enough for a house lot. So from a planning perspective, I think that's what the idea was at the time.

Now that would involve a bridge across Euclid Avenue and everything, which is not going to happen. But back to what Troy is proposing to do is, he's proposing to do larger lots, less impact on everything, no through street, and just a lot less houses. I think we have 11 houses, and that's it. And granting the variance pretty much shuts down the idea of a through street. And I think back in procedural, also, if you grant the variance, if we get into the subdivision design and review and things come up and it doesn't work, then obviously it's not going to get built like that. And Troy would have to come back with something else. Does that make sense?

But as far as rerouting them to Western Avenue, like I said, we'd have to come up with 60 feet on Western Avenue someplace for the two keyhole lots, which would eliminate a lot or maybe two on Western Avenue. So to get those back there, you would be losing lots there, and they'd be very long driveways going in also. So I think from Troy's perspective, and mine too, I think this is the least amount of impact for the entire property to be developed.

Board Member Muhlfelder: I think it's more financial. I think Troy owns a building or two on Western. Am I correct?

Chair Hext: You mean a home?

Board Member Muhlfelder: A home.

Mr. Walrath: He owns one I know of.

Board Member Muhlfelder: And I think, again, I mean, we all are concerned about our finances, but I think it's financial. He doesn't want to pay to put in a public road. This is a shortcut. And I don't think it's... Again, I firmly oppose it. I think it can be done. I think, again, it's self created.

Mr. Walrath: I don't think it's a shortcut on his part. He tends to try to have minimal impact on things. And the financial part is, if he has to build a road to Village specs, that necessitates the creation of more lots to pay for it. That's the catch 22 in it. If you put a public highway in, you need more houses to pay for that. If you eliminate the public highway, you build less houses.

Board Member Muhlfelder: Well didn't he say something about building 23 instead, or something?

Chair Hext: It could be 24. But then you get into, do we have enough water for 24? I don't know that DPW wants to take over another road.

Mr. Walrath: Yeah, I think last September, October, we talked about that and the Village was not keen on having a new public highway.

Chair Hext: Well thank you, Steve.

Mr. Walrath: Yes.

Chair Hext: All right, I think I kind of want to get everybody's opinion here. Barb's certainly given her opinion. I don't specifically mean a vote. Danny, what's your thoughts?

Board Member Ramirez: I know there's other avenues, part of it was just discussed right now - a public road. I'll talk about my vision, public road off of Western with a dead end, cul-de-sac turnaround, and let that little Schoharie Plank Road plot be a greenway accessing through there for children to walk into town as it may be. But again, it's a public road, it has additional costs, there's more housings in there. Things could be done on it. I just think it's a substantial variance for the four lots he wants to put in there. I see the planning, the water issues from the Village, taking over to town, the maintenance of the roads, et cetera. My only concern is on variances and the impact on the street, but there are certain things that, should the Board decide to allow these variances to go through, there are certain guidance and things that we can put in there. And so that's something that we have to think about, just out rightly, considering the variances approving.

Chair Hext: Thank you Danny. Andrea? We know what how Barb feels.

Board Member Muhlfelder: Sorry.

Chair Hext: Don't be sorry.

Board Member Andrea Witham: Specifically talking about doing four houses versus two houses, I don't think that it's necessarily a substantial change. I understand what the neighbors are feeling and I totally understand you probably don't want anything being built behind your houses and it's definitely going to change your neighborhood, and I understand that. But like we discussed, he did buy the property and it is available to put houses on. Otherwise, I'm sure he wouldn't have purchased it to begin with. I agree, doing what we can to mitigate the impact to the neighbors. But again, if he did two houses, the driveway is going to look the same going between the two houses, whether there's two or four houses. So I'm kind of leaning towards potentially approving the variances.

Chair Hext: James?

Board Member Sullivan: For the points that have already been stated, I'm inclined to support the variance.

Chair Hext: Simon?

Board Member Litten: I am inclined to support it, with a heavy heart.

Chair Hext: Bob?

Board Member Freeman: I support the variance because you can go ahead and put one road all the way from Western all the way in and just stop it and have those, just say for instance, they were going to do that to appease, whatever, you're still going to have houses in people's backyards. And I feel that... I understand, "Not in my backyard, I don't want it in my backyard." I get it. But again, this is Troy's land. He definitely bought it with a purpose.

I feel that whether there is two houses or four houses coming off of Schoharie Plank, I know Schoharie Plank, I've been up and down it all my life. It is quaint, and I mean, if he does it, he has to abide by whatever we put in place. Because I can understand the way the people feel on each side of that driveway. I get it. I live on a corner lot. I get walls of snow from when they come in and plow. And I'm the first house. I get everything from Main Street while the people across from me get nothing. I know that probably doesn't mean anything, but believe me, I feel the pain. But I would be inclined to because he did buy it for a purpose. We just need to set in place certain stipulations to make sure that everybody can benefit in one way or another.

Chair Hext: Okay, thank you. I agree with what everyone said, whether you're opposed or for the variances. It's definitely going to be a change to the neighborhood. It doesn't necessarily have to be a bad change. And we can't consider general community opposition in our decision to approve or deny a variance. So going through these factors, yeah, it'll be a change. Yeah, the applicant could possibly achieve it by another means, but technically it's not feasible because the result will be the same. You're still having the driveways coming out onto West Schoharie Plank Road. Is it substantial? Well, they're going from 30 to 16 feet. It is. But is it substantial enough to find a reason to deny it? As far as an adverse impact, I don't see that. I actually, if we here on in do it right, it won't be an adverse impact. I don't feel. I think it'll be a positive impact. It's Troy's land. As long as he does everything by code, there's really not a lot we can do. But that's why we can set conditions. So based on what I know we can rely on, as far as fact is concerned, I would probably agree with approving the variances, with conditions.

Board Member Ramirez: Okay. Now my question is, counsel, or Deb, do we have to set the conditions before the approval, or can we set the approval with conditions coming down the street?

Attorney Clarke: Based on the discussion we would move to our determination of SEQRA, which is required before any approval. There's not going to be conditions that are incorporated in that determination, that's going to be one way or the other without conditions. If there is then a motion to approve the area variances, in that resolution, we could set conditions on that approval. So you can include the conditions at that point. But based on the discussion now, we should move to SEQRA.

Board Member Ramirez: Thank you.

Attorney Clarke: As I stated at the start of the meeting, the draft SEQRA findings that were provided were based on review of part one of the full environmental assessment form that was provided by the applicant. In addition to this Board going through part two, which we answered every question during the June and July Planning Board meetings, during the discussion on part two, there were a few areas where we felt that there may be an impact. And I've left room for additional discussion notes for that draft to go through tonight. Also had on the record additional information from the town designated engineer. Not only was read into the record this evening, but he also appeared at the June public hearing and made statements as to some of the impacts as well.

Chair Hext: Do we want to read the draft findings, or how do you want to discuss? Do you want to just discuss this?

Attorney Clarke: I can go through, at least to go through Part 2. The first question was the impact on land. We did find that construction will not be on slopes of 15% or greater. The action will not involve the removal of more than 1000 tons of natural material. It's not located in a coastal erosion hazard area. The proposed action may involve construction on land where the depth of the water table is less than three feet. However, Village engineer recommends that rain gardens can be incorporated in the subdivision design to capture and filter stormwater as a way to address water quality and quantity on the lots. Of note, even if the Board makes a SEQRA determination this evening, if at a later date there's new application materials or if the subdivision plan were to change or if there was new information, that could allow this Board to reopen SEQRA and make a new determination based on that. So I just raise that as a point I was thinking about. Therefore, based on the discussion in Part 2, this is currently drafted as there not being a significant impact on land.

Two, impacts on geological features. Project site does not contain any unique or unusual landforms: cliffs, dunes, minerals, fossils, caves. Accordingly, during this Board's Part 2 review, no impacts were identified in geological features. Number three, impacts on surface waters including wetlands. There are no jurisdictional wetlands on site, and therefore no excavation of development occurring in a wetland. The ZBA identified the creek adjoining Schoharie Plank West as a concern for surface water that may be impacted. Based on the Village designated engineer review, there will be no upland erosion or runoff entering the stream, and therefore a little to no impact to the existing water body.

Also, as noted by the engineer that future plans should incorporate soil stabilization measures, installation of healthy vegetation and stabilized drainage soils. And because this came up as a potential impact, I did want to allow the Board to have any additional discussion on impacts on surface waters, including wetlands. Do you feel that additional findings should be included?

Chair Hext:

Yeah, I think Brad was talking about swales and rain gardens and definitely making sure that nothing is directed toward Marion Court. I think a lot of those things need to be incorporated in here. I know there was talk about vegetation and no cut zones, but I think we need, at some point, to discuss other types of trees that will be in bloom all season, and other trees that may help mitigate any water problems. I know everybody goes with a weeping willow or something like that. So I think that this impacts on surface water, wetlands or any type of runoff, I think once we get to the subdivision review, I think this needs to be addressed a little bit further.

Board Member Litten: The swales and water gardens, they need upkeep.

Chair Hext: They do.

Board Member Litten: So somehow there has to be a mechanism that, after these lots are sold off, there is a mechanism to maintain these.

Attorney Clarke: (to Steve Walrath) On behalf of the applicant, can you just state on the record if you're willing to install these mitigation measures, and also establish the proper maintenance and upkeep on those?

Mr. Walrath: Yes, on behalf the applicant, I can say that he will agree to that. We agreed to that. I have a project over in New Scotland which has the same type of swales and whatnot, and the town, actually, it was really interesting, but they have a right to, it's an unspecified easement to be able to go in and maintain the swales if the homeowner doesn't. And the homeowner's responsible for the payment of that, which I thought was kind of an interesting thing. So yeah, I mean, we could certainly do something like that. And then, as Deb mentioned the plantings and everything, we're already proposing some plantings if there's more.

Board Member Freeman: So that's even if it's not like a public road or anything of that nature, it's still if it's a private?

Mr. Walrath: Even with the private road, yeah. We have a landscape plan where we're showing plantings along all the properties along Schoharie Plank Road. And then coming off of Schoharie Plank Road, we can certainly do something there too, where the common driveway would come out. Because I still like the common driveway because it keeps it as narrow as possible, as opposed to a Village highway or something. And that gives it more to leave the buffer on the sides of the driveway and just less impact on the houses on the sides. But yes, as far as all of the mitigation and the runoff, the rain gardens, the vegetative swales, I've talked with Brad about that, and with Troy, and we're fine with that. That's the direction we're going with the design.

Attorney Clarke: And just to the Board, if for some reason the application were to not include those things in there, based on that you could reopen and find that there was an impact based on new information. But as it's before you today, that's to be included in the final design.

Board Member Muhlfelder: I'm sorry, we couldn't hear down here.

Attorney Clarke: Sorry. Got to decide which way to turn. So as the information before us today is that that will be included in the final subdivision plan. To the extent that it's not included, that would be new information that would allow this Board to reopen the SEQRA process based on that new information and find that there is an impact.

Board Member Muhlfelder: Okay, thank you.

Mr. Walrath: Yes, and I'm glad you brought that up because I think the public needs to be aware of that, that the Board can reopen SEQRA if things come up.

Attorney Clarke: Based on new information.

Mr. Walrath: Based on new information, yes. So I'm well aware of that, so I think it's good.

Attorney Clarke: All right. Number four, impact on groundwater. Project site will be served by an extension of municipal water and supply and sewer infrastructure. Based upon review by Village officials and what's been in the record at previous meetings, the Village has capacity in its municipal water and sewer system to serve the proposed project. Therefore, the project will not result in significant adverse impact to groundwater. Impacts on flooding. Lead agency finds that the proposed action may result in development on land subject to flooding. The proposed action may result in development within or close to the 100 year floodplain, including portion of the driveway access from Schoharie Plank Road West. Therefore, impacts on flooding are considered moderate to large, but according to the Village designated engineer can be mitigated through proper grading, incorporation of stormwater management features in the subdivision design, including installation of culverts where necessary to maintain natural drainage patterns. Since this was an issue in a number of the public comments and during the Board's Part 2 review, I did leave additional space for comments and notes this evening to include.

Chair Hext: Well, I think one thing we could include is Steve's idea of maintaining the rain gardens and the swales. And if that's not done by the homeowner, then the Village will do that at the cost, and I don't know how we would determine the cost of what homeowner, or would it be the applicant? And how would that be done? I know if they don't maintain their property right now, we take it out on their taxes.

Mr. Walrath: The drainage swales and the rain gardens, each lot will have their own. So there won't be a common area. So it's like you've got four or five people bickering about who's going to pay the bill, and I'm not going to. So they would all be on the individual lots.

Attorney Clarke: In terms of, Chair, what you stated, that would be more of a condition and approval, not necessarily in the SEQRA findings.

Chair Hext: Correct. Not necessarily in the SEQRA findings, right. Yep.

Attorney Clarke:

Anybody else on impacts on flooding that would like to have incorporated in the finding statement? Impact on air. The proposed project does not include any uses that would result in substantial change in existing air quality, nor any significant sources of air pollution proposed. Number seven, impact on plants and animals. US Fish and Wildlife Services Information for Planning and Consultation, New York State DEC Resource Mapper, and New York Natural Heritage Program were consulted for lists of potential federal and state threatened endangered species. This revealed the potential for the Northern Long-Eared Bat. The applicant has confirmed it'll limit any tree cutting to the NLEB hibernation period, November 1st through March 31st, to avoid any incidental take of that species. As a result of that mitigation measure imposed, with respect to the timing of tree removal, there's no significant adverse impact on plants or animals. Impacts on agricultural resources. There are no prime agricultural soils located on the project site.

Board Member Litten: You might want to amend that. There is no significant adverse impact on protected plants or animals.

Attorney Clarke: I will add, on any potential federal and state threatened and endangered species. Back to eight. No prime agricultural soils categories one through four located on the project site and no unique or irreplaceable agricultural lands will be adversely impacted by this project. Impacts on aesthetic resources based on the residential nature of the application and the fact that it'll not be in sharp contrast to existing land use patterns, ZBA finds that there will be no significant adverse impact on aesthetic resources.

Impacts on historic and archeological resources. Would like to amend this section. Just after additional review of the applicant's Part 1 of the SEQRA form, it was identified that the project site is substantially contiguous to the Altamont Historic District. During this Board's Part 2 review, there was a discussion as to whether or not this had an impact on the Altamont Historic District. So would just like to amend this section to state that that district is close by, and have this Board have any additional comments as to whether or not you think there's a significant impact to the Altamont Historic district?

Chair Hext: I mean, the historic district is on Main Street. It's not really near this project, so I can't see it having any impact on what's designated as our historic district on Main Street.

Attorney Clarke: Any other comments from the Board?

Board Member Ramirez: I guess on that particular one, the concern about temporary construction traffic that might cause a problem to any historical homes, per se.

Board Member Sullivan: I don't know how that would be different than construction going on anywhere else.

Board Member Ramirez: Yeah, so my thought is that, should this go through down the road and construction goes on, part of the variance is that they use a certain road.

Chair Hext: They have to. We already have that in. They can't go down West Schoharie Plank with construction vehicles. It all has to be accessed through Western.

Board Member Ramirez: I remember him building that back. But once they're on Western Avenue, can they go through the Village or they have to go through that road, Dunnsville Road?

Chair Hext: Oh, you mean like through Main Street or whatever?

Board Member Ramirez: Yeah. Just a thought.

Attorney Clarke: Can mark that as a consideration, that there could be a temporary impact from construction vehicles based on-

Board Member Ramirez: The weight classification. Something over, say, 18,000 pounds, per se.

Attorney Clarke: Anyone else on the historic district?

Chair Hext: I know right across the street there is the sign that it is a resting place and of a revolutionary, I think it was a revolutionary war, and that actually will be addressed in one of our next conversations. So, that is a concern, but it is across the street. This project isn't being built on that land.

Attorney Clarke: Impacts on open space and recreation. No significant adverse impacts to open space or recreation are anticipated as a result of the proposed project. The land is in private ownership and is not open to the public.

Twelve, impacts on critical environmental areas. According to the full environmental assessment form and the New York State DEC Mapper, there are no critical environmental areas on or near the project site. Therefore, no adverse impacts to critical environmental areas are anticipated impact on transportation. As with all development projects, there will be an alteration of the present patterns of movement of people and or goods posed by this project. Construction-related traffic impacts are expected to be temporary, however, concerns with existing capacity of Schoharie Plank West to handle traffic after construction have been raised by the public.

The ZBA also notes the road is currently utilized by pedestrians and bicycles that may be impacted by any increase in traffic. In additional discussion notes, we will incorporate the findings of the engineer that were read at the start of the meeting. Are there any additional discussion notes on transportation?

Chair Hext: The only thing I would like to see there, again this is back to the subdivision, but since we're doing SEQRA that kind of involves everything, is that egress the driveway from the four homes to West Schoharie Plank has some type of signage on it that they're entering a pedestrian zone and to slow for pedestrians or something. Hopefully, they would realize that, but when people are in a hurry, you never know. So, I would like to see some kind of signage at that driveway, and whatever mitigation can be made to slow anyone down from coming from that driveway.

Attorney Clarke: Okay. Impacts on energy. There are no anticipated significant adverse impacts on energy generation or use as part of the action. While development of the project will require the use of energy and fuel during construction and residence of the homes, nothing in the proposed development contemplates a major change in the use or type of energy that is already present and utilized in the community. In addition, electric service for the project will not result in any major upgrades to nearby electrical systems, nor will any large onsite utility infrastructure be needed.

Number 15, impacts on noise, odor and light. The proposed construction of the driveways and homes will be limited in duration and will not generate noise levels which would be substantially objectionable to the public at large. Construction related noise shall take place during daylight hours. As a result, while some noise and odor from construction during work hours is anticipated during construction, these impacts are considered minor and will be temporary in duration. With respect to light, all lighting fixtures will be governed during the subdivision and site plan review process. Any lights utilized in any of the residential homes shall be those lights typical of a residential development.

Town design engineer recommends that no light trespass can occur beyond property boundaries with 0.0 lumens at the property line.

Chair Hext: We have to change all those town references to Village.

Attorney Clarke: Sorry. Village. Yep. TD is the go-to.

Board Member Muhlfelder: I know with the Stewart's project there were ... didn't we decide on hours of construction and days?

Chair Hext: Yeah. We're governed by the Town of Guilderland's noise ordinance, as far as construction's concerned. So, we'll definitely refer to that, yes.

Board Member Muhlfelder: That will go in? Okay, good.

Board Member Litten: What does it mean when you write that the Village designated engineer recommends that no light trespass can occur beyond property boundaries with 0.0 lumens at the property line. Does that mean that there should be no visible light at the property line?

Chair Hext: Past the property line.

Board Member Litten: From what? From construction or from the homes?

Chair Hext: From the residential homes. So, somebody can't have a flood light that's going to shine into somebody else's bedroom.

Board Member Litten: Well, is 0.0 lumens mean no light or does it?

Attorney Clarke: Correct.

Chair Hext: Past the property line.

Board Member Sullivan: So, my front porch light violates that.

Board Member Litten: Yeah, I see your light.

Board Member Sullivan: I know.

Board Member Litten: So, what exactly does this mean?

Attorney Clarke: It came up in his review and it could be a condition that's imposed later on during the subdivision approval process.

Chair Hext: I think that was brought up based on the existing homes. So, in other words, they have just a field back there. These homes are going to be built. We don't want somebody to have

three or four floodlights flooding their backyard that's going to shine into an existing home's property.

Board Member Litten: What if you see their television? The 0.0 lumens means that there is no light coming from the subdivision across the property line.

Board Member Ramirez: It's measurable light.

Board Member Litten: Measurable light, okay.

Board Member Ramirez: So, you would have an instrument that measures the intensity of the light in lumens.

Board Member Litten: Okay. So, we can measure light at very low intensities.

Board Member Ramirez: Yes. But that television you're talking about, coming out the window. You go 20 feet out to the property line, you won't measure it.

Chair Hext: You won't be able to measure it, that TV, from 20 feet from the property line.

Board Member Litten: Well, it depends on what instrument you use.

Attorney Clarke: I think we should strike this from the findings.

Board Member Litten: Yes.

Attorney Clarke: If the ZBA would like to make this a requirement, we can bring it back up later.

With respect to odor, only residential traffic will be generated and there are no other sources of odors at the project. Based on the above, there are no anticipated significant adverse impacts on noise, odor, and light as a result of the proposed action.

16, Impact on human health. Although the ZBA found that there could be an impact on human health during Part 2 review, the ZBA found all questions to be of no or small impact may occur. Consistency with community plans. The lead agency finds the proposed residential nature of the project is consistent with the Village zoning law and long-term plan for development of the community and will not result in a significant permanent population increase. However, the applicant will require a variance to construct four keyhole lots with frontage on Schoharie Plank West, and this, by nature, may be considered inconsistent with the Village zoning law.

Regardless, significant adverse impacts to the community's adopted land use plans is not anticipated due to mitigation that has been incorporated in the project design including use of a single shared driveway and vegetative buffers.

Number 18, consistency with community character. No significant adverse impacts to community character are expected as a result of the proposed action. The character of the

surrounding neighborhood is set by a mix of agricultural and residential and the proposed subdivision will have no or small impact on the existing character.

19, impact on public services. There are no anticipated significant adverse impacts on public services as a result of the action.

Other factors and considerations. The ZBA has determined that the construction of the project will not cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels.

The project does not contain a significant habitat area. As described in detail above, with the proposed mitigation, no adverse impacts on a threatened or endangered species of animal, or plant, or the habitat of such a species or other significant adverse impacts to natural resources have been identified.

Three, there are no designated critical environmental areas on or near the premises. As a result, no such impact in the area will occur.

Four, as described in detail above, the proposal will not result in the creation of a material conflict with the community's current plans or goals as officially approved or adopted.

Five, as noted above and throughout this document, the project will not result in the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.

Six, there are ample sources of electrical energy for the project and no significant utility upgrades are required. As a result, there is no major change in the use of either the quantity or type of energy.

Seven, the proposal changes a now open field to a subdivision but does not create a negative substantial change in the use or intensity of use, of land, including agricultural, open space, or recreational resources, or in its capacity to support existing uses.

Eight, the proposal does not encourage or attract a large number of people to a place or places. The site is of significant size and is capable of accommodating the project.

The Lead Agency further finds that, as with any development project, the proposed action will create some additional demand for community services - schools, police, and fire. However, this impact is mitigated to a small or moderate impact and rendered diminimus by the following.

- a) Adequate numbers of police, fire and emergency personnel and modern response vehicles and apparatus presently exist to accommodate the project in the Village.
- b) The project will result in a moderate number of children being introduced into the school district.

Based on the findings, the Board would have to make a recommendation for either a positive declaration or a negative declaration through the Part 2 review. It's my opinion that the findings find that it'll not be a significant impact, but if there's any changes to the findings, we can make them.

Chair Hext: Do we need to make a motion?

Attorney Clarke: Make a motion. Yeah.

Chair Hext: Okay. Does anybody have anything they want to add to that before I ask for a motion? Okay then, could I have a motion to declare a negative declaration under SEQRA for this project? Board Member Ramirez made the motion. Board Member Muhlfelder seconded.
Roll Call: All in favor.

Chair Hext: In favor. Okay. With that then, we have a resolution to approve the variances.

Attorney Clarke: Next, there is a draft resolution before the Board for Findings and Decision on the Request for Area Variance Relief.

Whereas the Zoning Board of appeals for the Village received an application from CM Fox Living Solutions for 11 lot subdivision, including area variance relief from the minimum frontage requirement for a keyhole lot. Whereas Village law requires the minimum road frontage to be 30 feet for a keyhole lot. Whereas the applicant proposes to have four keyhole lots with approximately 16 feet of road frontage each. Whereas the applicant submitted application on December 13th, 2022, last revised April, 2023. Whereas the ZBA has reviewed the application together with additional information submitted by the applicant.

Whereas the ZBA duly notice and held a public hearing on the application on June 28th, 2023, continued on July 25th, 2023, at which time all members of the public wishing to speak were heard. Whereas the ZBA has reviewed and considered all public hearing comments that were received on the application and additional information relevant to the application and applicable standard of review.

Now, therefore, be it resolved as follows, the ZBA has considered the standards for an area variance contained in the Village of Altamont zoning law section 355-52(D)(3)(b)(1)-(5) and hereby adopts the determination and findings annexed here too.

The ZBA does hereby, and I need a motion to either grant or deny the application for variance relief. If the motion is to grant, the Board is able to set any conditions or particulars to that approval.

Chair Hext: Okay. Then could I have a motion to grant the variance relief with conditions that will be set forth after the decision. Board Member Sullivan made the motion. Board Member Litten seconded. **Roll Call: Board Member Ramirez – opposed and Board Member Muhlfelder – opposed. Board Members Witham, Sullivan, Litten and Freeman, and Chair Hext – in favor.**

Chair Hext: What were the mitigations that we would like to propose? I know vegetation, trees, plantings, signage at the end of the common driveway, maintaining the rain gardens or swales. I know one thing, and Larry you can just nod or say no, the Village is paving all the Village roads that need it, and it's my understanding that at some point, West Schoharie Plank is due to be repaved. At what point, I don't know, but I'm sure it's not going to be before the construction. So, that might help some things. Any other mitigations for traffic control or anything like that I think should be considered going forward when we do the subdivision review. Anything else that anybody wants to add to that?

Board Member Sullivan: How specific do we need to be at this point? Or can we say that we need to see vegetation? You know what I mean? Do we have to spell it specifically? I think there

should be more deciduous trees on the driveway part where it would most affect the homeowners.

Chair Hext: Yes.

Board Member Sullivan: Would that need to be spelled out now or?

Attorney Clarke: It could be during subdivision review.

Board Member Sullivan: Thank you.

Chair Hext: It could be based on whether or not we approve the subdivision. We've got a long way to go.

Attorney Clarke: Yes, that's a good point, Chair, that this project still requires full subdivision review and approval and therefore in terms of getting too specific, there's still opportunity and the project still may not move forward.

Chair Hext: Okay. Are we good?

Attorney Clarke: I think there should be a motion to amend with those conditions formally to that approval. The motion would be to amend the approval resolution to include conditions that there be substantial vegetation and screening along the access drive, signage at the end of the common driveway, and that any rain gardens or swales installed will require a maintenance plan.

Chair Hext: Okay. Can I have a motion then to amend the resolution to include those findings or conditions? Board Member Ramirez made the motion, seconded by Board Member Sullivan.

Roll Call: All in favor.

Chair Hext: Okay. Thank you. Again, I apologize to those waiting to be heard, but the next item on the agenda is a public hearing on the application by Patty Doak for a minor subdivision at 138 Western Avenue, Tax Map 37.14.T.5.

Could you read the legal notice?

Attorney Clarke: (see attached Legal Notice – Patty Doak, 138 Western Avenue)

Please take notice that the Village of Altamont Zoning Board of Appeals will hold a public hearing on August 22nd, 2023 at around 7:00 PM at the Altamont Village Community Room, 115 Main Street, Altamont, New York, to hear all interested persons on the proposed application of Patty Doak for a minor subdivision pursuant to Article two of the Village of Altamont zoning law, subsection 315-9, through subsection 315-13.

The property zoned R20 is identified as tax map number 37.14.2.5 and is located at 138 Western Avenue in the Village of Altamont. All persons desiring to speak either on behalf of or opposition to said application shall be heard by either attending the public hearing or by submitting written comments in advance to the public hearing to the ZBA secretary. Copies of the application materials are available for review at the offices of the Village clerk located at 115

Main Street during normal business hours and will be available on the website by Friday, August 18th, 2023.

Chair Hext: Thank you. That opens the public hearing. Steve, do you want to give a quick rundown.

Mr. Walrath: Sure. I'm Stephen Walrath. I'm a land surveyor. It's a two lot subdivision on 2.4 acres at 138 Western Avenue. We have an existing house here and a garage in the back. Minimum is 20,000 square feet. This is going to be a little over 26,000 square feet, and then lot two here is a little over 79,000 square feet. So, it's well above the minimum. The reason the Holts are doing this is they want to sell this lot first here. Patty's mothers in assisted living and the property's in a trust and they need to sell the lot to get some money for Mom. So, that's pretty much the background of it. As far as you know where somebody would build on this, I don't know, it's so big. So.

Chair Hext: At the last meeting we had requested a couple of things. One, something that shows that you are the trustee or that you can do this and sell this land. The other was to contact either SHPO or the New York State Education Department regarding the signage that's on that property.

Mr. Walrath: We've got that one figured out. The cemetery is over here, which is on the property behind the group home. It was old Dr. Grover's house and that's like the oldest house on the street there and I think that was John Groats house originally, which is ... this I think is the back of the house and the cemetery's over here.

So, the cemetery itself is 200 feet away from the property that we're talking about here. The only reason I could think of why the sign is on Western Avenue, it was just more convenient there for the state to put it there than in front of the group home. I don't know if anybody knew where it was. So, that's the only reason I can think of why the sign is there. But, the cemetery is not on the Doak property, or the whole property I should say.

Board Member Litten: Is the location of the cemetery marked on the ground? Is there a stone?

Mr. Walrath: There's headstones there, yes.

Board Member Litten: All right.

Mr. Walrath: Yeah. And it says John Groate. So, it got changed to Groot at some point, but yes, the headstones are there and that's where it is.

Chair Hext: So, have we contacted the Albany Historical Society or anyone just-

Mr. Walrath: We haven't contacted them because we found the cemetery and the cemetery does not impact the property, the whole property.

Chair Hext I don't know about anybody else, but I think I would like to see something either from SHPO (State Historic Preservation Office) or someone that states that you're correct. I'm

not questioning it, but if we allow two homes to be built there and later on somebody comes forward and says, you're building over a historical site. We have to make sure we're crossing our T's and dotting our I's. We had requested that prior at the meeting and I would still like to see that.

Board Member Ramirez: Now question. You're the surveyor. Is that marked out? Can it be fenced off or?

Mr. Walrath: It could be, but it is not on the Holt's property. It is on someone else's property. They have no control over it. There's nothing they could do. It's not on their property.

Board Member Ramirez: Gotcha. Thank you.

Chair Hext: Does that show that it's not on their property on our tax map?

Mr. Walrath: It's not shown on the tax map, no. There's no record that I found, even through SHPO and whatnot, as to the location of it. So, to me, this is like the first time it's been put on a map that I know of.

Board Member Litten: Doesn't the New York State Department of State maintain a list of cemeteries?

Mr. Walrath: They do. It is listed. They don't have like a GIS database saying this is where it is. They know it is on the old John Groot farm, which was probably everything here over to Maple Avenue extension and down to maybe even the Bozenkill. I have no idea how much he owned at the time, but it definitely is over here. The headstones are there.

Chair Hext: And it's accessible from that property?

Mr. Walrath: Yeah, it is accessible from here. They're aware of it. I think Ro (Rolando) had talked to them too and somebody said, yeah, it is back there someplace. Patty's brothers said someplace over by these two pine trees here and then walk that way about 100, 150 feet. It's over there someplace, and we found it and located it.

Chair Hext: Would it be okay for me to contact them?

Attorney Clarke: Yeah. I think the other option at this point is no land disturbances being proposed. Any approval could be conditioned that there will be no construction until it's confirmed. That's another option.

Chair Hext: Yeah. Well, I mean, this is just the public hearing. We've got to give the public a chance to digress what we're seeing tonight. It's not going to be determined tonight anyway. We'll leave the public hearing open.

Mr. Walrath: Yeah, I certainly don't have a problem sending it to SHPO and see what then, and show them where it is.

Chair Hext: All right, good. Would you do that?

Mr. Walrath: Yeah.

Chair Hext: Thank you Steve.

Mr. Walrath: Yeah, we can do that.

Board Member Muhlfelder: I clean up cemeteries. If you find it needs it.

Chair Hext: I'm sure it does. The other question was do we have any documentation that shows who owns the land and that it's okay to go ahead and sell it off? We had asked for that last time.

Darrell Doak: My name is Darrell Doak and I'm Patty Doak's husband. I know we talked at the end of the meeting about the gravestone, the historical sites and stuff like that. The land has been put in a trust. I did not bring documentation here, to answer your question directly. The land was put in a trust in Patty and Michael's name, I'm guessing probably five, six years ago.

Chair Hext: Go ahead.

Mr. Doak: Longer than that. So, I did not bring any documentation. I don't know. I mean, we pay our taxes. I don't know if it's something that's on the tax bills or something like that. I don't know.

Chair Hext: I would assume that there'd be something making you a power of attorney or some type of trustee over the land.

Applicant Patty Doak: I didn't know I needed all those - I'm Patty Doak, by the way - I didn't know I needed all that legal information for tonight. I'm my mom's power of attorney. She's in assisted living and needs the cash to pay for her expenses at this point. I can give you a copy of the power of attorney. I can give you a copy of the trust. My brother and I both are owners of the trust for my mom. Our lawyer has told us that we should not need to prove any- or, we should not need to get it out of the trust to do the subdivision. So I didn't understand that you officially needed copies of a trust or that I'm power of attorney for my mom with my brother and I both signing the application saying that we're in agreement for the subdivision, and we are just doing this for my mom.

I know you have your job to do. I'm looking out for my mom, and I'm trying to make this a simple process. We've been caring for her for over a year at home. And I'm just trying. So I'll do whatever you want. I'll drop off whatever papers you need, but you telling me that this little cemetery that's not even on our property is going to cause issues that I don't think should be mine. It's not my property. I want to subdivide a house, a piece of land, to care for my mom.

Attorney Clarke: Just on the trust issue. The documentation is because without the agreement... Yeah.

Mrs. Doak: I'll bring a copy tomorrow.

Attorney Clarke: Without the agreement - we don't know who the trustees are, so. Yep.

Mrs. Doak: Okay. I understand, and I'm sorry I didn't have that with me. That's on me.

Board Member Freeman: It has to be on a piece of paper.

Mrs. Doak: That's on me. I thought signing that little application was going to be...

Chair Hext: Nope. That's okay. I mean, yeah, like I said, this will be continued to next month and then we'll make a determination then.

Mrs. Doak: Okay. I will make sure you have all of that.

Chair Hext: This has got to go through SEQRA, right? Because it's an unlisted action, the other two are type twos.

Mrs. Doak: Can I just ask one more question? Can you help me understand why the cemetery not being on my property is my problem to try to do this?

Chair Hext: Well, it's not necessarily a problem, it's just, when we see that signage, we have to make sure that we're not allowing something that either New York State Department of Education or Albany's Historical Society is saying, "Well, you can build there, but maybe whoever owns that property has to put a fence up, so nobody's going to..." Yeah.

Mrs. Doak: I'm not asking to build. I'm asking to subdivide it for my mother's care, whoever or whatever happens to that piece of property in the future. That's on whoever purchases or does that. I don't feel that should be my responsibility right now. I don't feel like I'm asking too much of that one.

Chair Hext: We could make that a condition, that whoever buys the property does diligence.

Attorney Clarke: Yeah. That's just the note I had before, since there's no ground disturbance.

Chair Hext: Oh, okay. Yeah. Right.

Board Member Muhlfelder: I agree.

Chair Hext: All right. We're good.

Mrs. Doak: Thank you. I mean, I'm not trying to make your job any harder. I'm just trying to make my job maybe a little easier and understand my responsibility for my mom.

Chair Hext:

On hundred percent. Totally agree with you. No, you're right. You're one hundred percent-

Mr. Doak: But you need a copy of the trust.

Chair Hext: Yes.

Mrs. Doak: I will give you the trust. I will give you power of attorney. It'll be wherever it needs to be tomorrow morning.

Chair Hext: Okay. Just drop it off at the Village office.

Mrs. Doak: You'll have it.

Chair Hext: Thank you.

Mrs. Doak: If I had known, I would've brought it tonight.

Mrs. Doak: Thank you.

Board Member Muhlfelder: Thank you.

Chair Hext: Anybody else? The public hearing is still open. Does anybody have anything on this that would like to speak? Board, does anybody have anything...?

Board Member Ramirez: On this here? No. As I understand the cemetery - or the grave, rather - is not on their property in question.

Chair Hext: That's what we're- yes. That's what...

Attorney Clarke: That's what's being presented.

Chair Hext: Right. That's what Steve is representing.

Mr. Walrath: Yeah. And I was just thinking what you were just talking about as far as when somebody buys it - is that something you could make a condition upon issuance of building permit or something?

Chair Hext: Right. Yeah.

Board Member Muhlfelder: I think, is there any way to find out whose property that is? Is it Gregg Road?

Board Member Freeman: It's the assisted living, isn't it? Or...

Mr. Walrath: It's... let me get this.

Board Member Muhlfelder: Wouldn't they... Whoever owns that property-

Mr. Walrath: It's the Center for Disability Services, Inc.

Board Member Muhlfelder: Owns that land.

Mr. Walrath: Owns that land, yes.

Board Member Muhlfelder: They're not going to be taking care of it. Right.

Mr. Walrath: And they're aware that the cemetery is on their property.

Board Member Muhlfelder: Okay. Alrighty.

Chair Hext: And we'll just, like Hyde said, make that a condition of no disturbance in that area.

Mr. Walrath: Right. No disturbance can take place until you get something that...

Board Member Muhlfelder: That's a good idea.

Chair Hext: Okay.

Mr. Walrath: Okay.

Chair Hext: Well then, could I have a motion to close the public hearing?

Board Member Ramirez: So moved.

Chair Hext: I'm sorry. No, let me take that back. We're going to leave the public hearing open because the community hasn't had a chance to review anything. We're still waiting on a few things, so no, I'm sorry. We're going to leave this public hearing open at this point. Thank you, Steve.

Mr. Walrath: Okay. You're welcome.

Chair Hext: Okay. The next topic of discussion is application for a variance requested by Robert Spring for wood or vinyl fencing, six feet in height at 157 Bozenkill Road, tax map 37.09-1-2.2. And, just to clarify that a little bit more, they want to put this in the front yard and that's what requires the variance.

Attorney Clarke: (see attached Legal Notice for Robert Spring, 157 Bozenkill Road)

Please take notice that the Village ZBA will hold a public hearing on August 22nd, 2023 at the Village community room to hear all interested persons on the proposed application of Robert Spring for an area variance pursuant to Article 4 of the Village zoning law, subsection 355-24C to allow an approximate 35 feet of six foot high fencing in the front yard. The property zoned R20 is identified as tax map #37.09-1-2.2, and is located at 157 Bozenkill Road in the Village. All persons desiring to speak either on behalf of or in opposition to said area variance shall be heard by either attending the public hearing or submitting comments in advance to the ZBA secretary.

Chair Hext: Thank you. That opens the public hearing.

Board Member Ramirez: Excuse me. The number of footage on the fencing that you mentioned in there?

Attorney Clarke: The notice states that it's 35 feet of six foot high fencing.

Board Member Ramirez: On the application it's approximately 113 feet.

Attorney Clarke: We can have the applicant come up here.

Chair Hext: Yeah. Mr. Spring, you want to come up and talk to that?

(2:03) Applicant Robert Spring: Good evening. Rob Spring at 157 Bozenkill. It is 113 feet, however, it'll be a little bit less. I'm stepping forward because the Board had a couple of comments, so I thought I would address them. One comment was, "Will we see it from the road?" And so we have decided to shorten it a little bit as it comes around the L. It'll actually end approximately even with our neighbor's garage, the corner of the garage. So when you do walk by, sure, you might see it through the woods, but if you stood in front of it, it's going to be behind a garage, so you're really not going to see that.

The second comment that was made was the type of fencing. We were not comfortable - the Board was not comfortable - with a bright white vinyl fence. I get it. So I did bring in photographs. We have settled on a wooden fence, and it is wood, so it's not going to be an issue.

Board Member Freeman (?): It's going to look like wood.

Applicant Robert Spring: What's that?

Board Member Freeman (?): It's going to look like wood.

Applicant Robert Spring: It's going to look like wood. It is wood. And my neighbor will have the choice which side of the fence he would like. So it's not going to be gold.

Fire Chief Miller: I vote denied.

Applicant Robert Spring: Denied. Right.

Chair Hext: As far as the side of the fence is concerned, do you know have to put the...

Board Member Freeman: Yeah, the posts are on your side.

Chair Hext: Yeah, the posts and everything on your side.

Applicant Robert Spring: Yes.

Chair Hext: Okay. That's...

Applicant Robert Spring: So those were the concerns that were raised the last time.

Chair Hext: And you brought pictures. Okay. If you could turn those pictures in so that we can make them part of the public record, so if anyone going forward wants to see them, they can.

Applicant Robert Spring: I'd just like to keep one set, but I can give the Board one set.

Chair Hext: You can drop it off at the office tomorrow, whatever.

Applicant Robert Spring: I'll give it to you now.

Chair Hext: Again, we've got things that are being presented tonight, so we're going to leave the public hearing open until next month so that if anybody wants to comment on it, come in and look at it, Paul does changes his mind and doesn't really want it, we give him an ample opportunity.

Applicant Robert Spring: Okay. Okay. I think that'll work fine.

Chair Hext: So that would be September 26th, would be our next meeting.

Applicant Robert Spring: Okay. I just got to check with the fencing company. They were giving dates, but they weren't there yet, so. So this will remain open?

Chair Hext: Yes, the public hearing will remain open and if we don't get any feedback or anything... I don't know if anybody wants to speak tonight, but hopefully we'll be able to make...

Applicant Robert Spring: Okay.

Chair Hext: It's a type two action, I believe, which isn't... Doesn't have to go through SEQRA.

Applicant Robert Spring: Okay.

Chair Hext: All right.

Applicant Robert Spring: Just a question to the Board. I had to write a \$500 escrow check, and I noticed the Village cashed it. That was set aside for legal fees. Do I get that back, or were lawyers involved? I know I had to pay \$350 to file it and then \$500 in escrow in case attorneys needed to be involved. I wasn't notified that there were any attorneys involved, so...

Chair Hext: Just having our attorney here, and his firm will be drafting the resolution document to either approve or deny the variance, so that is work done by our attorney. Depending on how long it takes them to do that, you might get some of it back. I don't know.

Applicant Robert Spring: Okay. All right. Do you want to do this now, or at a later time?

Board Member Ramirez: Thank you for bringing that in.

Chair Hext: Does anybody else want to comment on this public hearing?

Board Member Muhlfelder: No.

Chair Hext: Okay. We're leaving it open. Anybody that wants to review the documentation or the pictures, they'll be at the office.

Okay then, number five, public hearing application for Special Use Permit requested by Chris Wolf to refinish part of basement at 982 Altamont Boulevard, tax map 48.06-3-8, to create an apartment for applicant's elderly mother-in-law. I know last time we had requested some information as far as windows, egress/ingress windows. You want to come up? Oh wait, sorry. Nope. Wait. Hold that thought.

Attorney Clarke: (see attached Legal Notice for Chris Wolff – 982 Altamont Blvd.)

Please take notice that the Village of Altamont Zoning Board of Appeals will hold a public hearing on August 22nd, 2023 at the Altamont Village Community room to hear all interested persons on proposed application of Chris Wolff for a special use permit pursuant to Article 5 of the Village of Altamont zoning law, subsection 355-38K, to allow a one bedroom, in-law apartment to be constructed in the basement of the single family home. The property zoned R10 is identified as tax map number 48.06-3-8, is located at 982 Altamont Boulevard in the Village of Altamont. All persons desiring to speak either on behalf of or not opposition to said application shall be heard by either attending the public hearing or by submitting written comments in advance of the public hearing to the ZBA secretary.

Chair Hext: Thank you. Okay. Sorry about that.

Applicant Chris Wolff: Okay. I'm Chris Wolf, the owner of the property. And so, Chris Wolff, owner and applicant. We've talked to the contractor and we're making the egress windows, which is one of the questions... I don't think it's actually required because there are three other egress points, but we have gotten the contractor to build that into the plans and so it's all going forward.

Board Member Muhlfelder: I'm sorry, I didn't hear you. Are you talking about the windows, or you...

Mr. Wolff: Last time, there was asking about whether we have an egress window from the bedroom, and we've looked into trying to figure out whether it was required or not, and our contractor's a fireman and he and others thought it probably wasn't, but regardless, we have it drawn into the plans now to go forward with the egress.

Board Member Muhlfelder: Thank you. We had, I think a question about the window size that we weren't sure... I don't think anybody knew, but...

Mr. Wolff: Yeah. It's 33, I think, now, and it needs to be 36 inches for an egress window, so that was all.

Board Member Muhlfelder: Okay. Thank you.

Chair Hext: And do you have the drawings from the contractor and the architect? I don't know who you hired to do what.

Mr. Wolff: We have examples of what the windows will look like, and we have pictures of the current windows, and then some examples of what the windows would look like. As well as pictures of other parts of the basement and stuff, if needed.

Chair Hext: At the last meeting, we didn't have an architectural drawing or a contractor's drawing, right? We just kind of had a sketch of what you were planning on doing.

Mr. Wolff: Yeah, I don't have the contractor's drawing up. We have that. That was what the contractor gave us.

Board Member Ramirez: Yeah, it was a sketch. Yeah. I think I mentioned last time that there were no windows indicated on that, which is why I brought it up. You need two egresses for the structure.

Mr. Wolff: And there's three.

Board Member Ramirez: Every bedroom has to have an egress besides the door, and the door - from an egress from a rental, say - cannot lead to another part of the basement, has to go directly to the outside.

Mr. Wolff: Yeah. That's why we have it. We have it.

Board Member Ramirez: Okay. But we were thinking about the windows that-

Mr. Wolff: Right, yeah. And we have examples of how the windows, the egress windows, will look, we found. But...

Board Member Muhlfelder: Good.

Chair Hext: Does the Board feel like we have enough as far as the sketch that we have? I know we're going to need an updated one that shows the windows and the size and everything.

Mr. Wolff: Right.

Chair Hext: Who did the sketch? Did an architect? Did you just...?

Mr. Wolff: That was the contractor.

Chair Hext: Contractor did the sketch? Okay. So if, for our review and the public's review, if you could have the same sketch made with the egress/ingress/egress windows put in, drop it off at the office so that it's in in time for the next public hearing. We can take it from there.

Mr. Wolff: Okay. Sure.

Board Member Ramirez: Gary, I apologize. Is there anything else you feel that he might need to bring in so that we don't have any...?

Building Inspector/Code Enforcer Gary Goss: No, I don't think so. I think it's really just the Board deciding whether or not you want to allow it, and then if you allow it, it'll be up to me to make sure they're using the current [inaudible]. And I have all that information [inaudible].

Board Member Ramirez: Thank you.

Chair Hext: We just can't allow it tonight, because it's the public hearing, and the public hasn't had a chance to review what's been submitted and it's not the final layout. Is that correct?

Mr. Wolff: Okay.

Chair Hext: But it'll be September 26th, and hopefully everything... I can't imagine. I know, I know.

Applicant Mrs. Wolff: Will we be at the end again?

Chair Hext: Pardon me?

Applicant Mrs. Wolff: Will we be the last people on the agenda again?

Chair Hext: I will make sure you are first, next time.

Mr. Wolff: Yeah. We just have her mother living in a small room, so...

Chair Hext: Yeah. I know. Unfortunately, the way the code is written, we don't have much of a choice, so we're leaving that open. So we'll have three public hearings next time, but I don't see a problem going forward with any of them.

Attorney Clarke: I didn't see this until now, but the written comments, I don't know if you want us to read the whole thing, but... [inaudible]. Just make it part of the record?

Chair Hext: Yeah. I think the applicant should be able to hear this. This was an email we received.

Applicant Mrs. Wolff: Yeah, we saw it.

Attorney Clarke: They saw it, they said.

Chair Hext: You saw it. Okay. But we've already got that covered. So, just for the rest of the people, the email was requesting that we don't allow a basement apartment to be built without egress windows, which we've already addressed. Albany County does not require licensing of the trades, which is troublesome because other counties in New York have laws requiring trades. The only protection we have at this moment, in my opinion, is you at the time of the permit

review, which we'll definitely do diligence on that. Okay. That said, that public hearing is being left open. Again, I apologize that you were last. I promise you. Ginger, will you make them first on the agenda next time. And again, I appreciate everyone's patience. It's tough to get through. We have to just keep plowing forward.

Okay. With that, does anybody have anything else that they want to cover before we review the minutes? No? Okay, then, could I have a motion to approve the minutes or disapprove the minutes from July 25th, or if there are any comments on the minutes?

Board Member Litten: I have one very small comment on page six. I mentioned something about tropical storm Floyd. Do you see that, Ginger?

Chair Hext: Where are you?

Board Member Litten: In the middle of the page, on page six.

Chair Hext: Oh, okay. Yep. I recall Floyd hitting quite a bit.

Board Member Litten: Okay. "It destroyed some of my equipment down in the Wall Kiln, but not here..." Wall Kill is the name of a river in Orange County.

Secretary Ginger Hannah: Oh, so, how do you spell that?

Board Member Litten: W-A-L-L space K-I-L-L.

Secretary Ginger Hannah: Okay. Thank You.

Board Member Muhlfelder: I had a couple... On page one. Okay. Three quarters of the way down, it says, "Deb, I'm sorry, I just have concerns with the O-F-F-something of Schoharie Plank Road," with the... Does anybody know what that is? Page one, it says, "Deb-"

Chair Hext: I was going to send you concerns about that, too.

Attorney Clarke: Access, probably.

Chair Hext: Where are...?

Board Member Muhlfelder: It says, "I just have concerns-"

Chair Hext: Access, maybe the access off of Schoharie Plank? Maybe we're missing one word there?

Attorney Clarke: Driveway access? Maybe that.

Chair Hext: Yeah.

Board Member Muhlfelder: Okay. And I had one other little one, I think. I don't know who said it... On page two, down at the bottom. Tom Capuano, speaker. "My name is Tom Capuano. I live in the town of Guilderland. Outside of the out..." Should it be outer?

Chair Hext: Outside of the Altamont...?

Board Member Muhlfelder: "Outer Altamont city limits."

Chair Hext: Should be "Village," but if that's what he said, that's what we have keep.

Board Member Litten: That's what he said.

Chair Hext: People get confused with that.

Board Member Muhlfelder: Okay, so it's the outer...

Chair Hext: Outside of the Village of Altamont.

Board Member Muhlfelder: The outer... Yeah. That's it.

Chair Hext: Well, I just had a couple things, and... The one on page five... Simon, you said, "Deb testified at the meeting that she had seen quite a bit of sediment going into the stream during the storm." Is that Deb Johnson?

Board Member Litten: Yes.

Chair Hext: Okay.

Board Member Litten: But I didn't say her last name.

Chair Hext: Okay. Yeah. All right.

Board Member Litten: The transcript is accurate.

Chair Hext: Yeah, okay. I just want to make sure, because I'm like, "I don't remember saying that." Okay. That's all I had. If no one else has anything else, can I have a motion to approve the minutes with those changes of July 25th, 2023? Motion made by Board Member Muhlfelder, seconded by Board Member Freeman. **Roll Call: All in Favor.**

Chair Hext: Okay. The next ZBA meeting will be September 26th in Village Hall at 7:00 PM. That stated, can I have a motion to adjourn the meeting, please? Motion made by Board Member Ramirez, seconded by Board Member Muhlfelder. **Roll Call: All in favor.**

Board Member Muhlfelder: Thank you everybody.

Chair Hext: Thank you everyone. I know that was tough.

Respectfully submitted,



Ginger Hannah, Secretary

Attached:

- B&L email dated 8/22/23 re: sidewalks
- Area Variance Findings & Decision Worksheet for CM Fox
- SEQRA A Findings Statement and Notice of Determination for CM Fox
- Resolution, Findings and Decision on Request for Area Variance Relief for CM Fox
- Resident Letter re: CM Fox Variance from Joseph Connors, Esq. and Jaya Connors, Esq.
- 3 Public Hearing Notices – Patty Doak, Robert Spring, and Chris Wolff
- Photos of fences submitted by Robert Spring
- ACPB Notice – Fence Variance – Robert Spring

Ginger Hannah

From: Deborah Hext <djh1355@gmail.com>
Sent: Tuesday, August 22, 2023 3:53 PM
To: Ginger Hannah
Subject: Fwd: Schoharie Plank Road-R.O.W.

Hi Ginger,

Could you please print out copy of this email from Brad for Board members. Thank you.

Deb

----- Forwarded message -----

From: **Bradley D. Grant** <bgrant@bartonandloguidice.com>
Date: Tue, Aug 22, 2023, 13:55
Subject: Schoharie Plank Road-R.O.W.
To: Hyde Clarke <hclarke@youngsommer.com>, Deborah Hext <djh1355@gmail.com>
Cc: Allyson Phillips <APhillips@youngsommer.com>, Jeffrey Moller <villagedpw@nycap.rr.com>

Jeff Moller is off this week. I stopped down at Village Hall and scaled the tax map for SPR and ROW scales as 50' wide on both sides of the creek.

I measured Sand Street width (where I live in VOA) and it is 19' approx.

Bradley D. Grant
Senior Project Manager
Sustainable Planning & Design

Barton&Loguidice
Office: 518.218.1801
Email: bgrant@bartonandloguidice.com
[Website](#) | [LinkedIn](#) | [Twitter](#) | [Facebook](#) | [Vimeo](#)

The information in this message is confidential and is intended for the identified recipient(s). If you are not an intended recipient, please delete the message and notify the sender immediately. Any unauthorized use, disclosure or copying of this message is strictly forbidden and may be subject to legal action.

From: Bradley D. Grant
Sent: Monday, August 21, 2023 10:16 PM
To: 'Hyde Clarke' <hclarke@youngsommer.com>; Deborah Hext <djh1355@gmail.com>
Cc: Allyson Phillips <APhillips@youngsommer.com>; Jeffrey Moller <villagedpw@nycap.rr.com>
Subject: Schoharie Plank Road-opinions

Deborah: As discussed today the following points are opinions and without absolute knowledge of the right of way (R.O.W.) width of Schoharie Plank Road.

Existing conditions:

1. Schoharie Plank Road (SPR) is a dead end street owned and maintained by the Village of Altamont. The width of the pavement is around 16' wide. Design standards of this historic road are unknown but has served approximately 9 houses for decades. Current Village standards are 22' wide (Circa 1994 standards long before WSPR was paved).
2. To my knowledge SPR has never had a sidewalk. The ability to locate a walk or trail for pedestrians depends on the width of the R.O.W. and the desire to keep impervious surfaces farther than 100 feet from the adjacent stream per current Village Code. The street was built closer than that years ago. A trail could be of pervious construction although concrete sidewalks are generally encouraged by Village code for new subdivisions. Many properties in the Village were developed closer to the streams a long time ago and within 100' as WSPR is now.
3. Sight distance is good owing to a straight and limited length. Village code 315-24 states 120' for low traffic streets like SPR and there seems to much more than that.
4. Like other unposted streets the speed limit is 30 mph. Given the limited width and lack of accommodations for pedestrians and 16' width a consideration of a reduced speed limit to 10 mph could be made.
5. This street has been served by Village Police, fire and ambulance services.

Project considerations:

1. Traffic volume on West SPR can be deemed low based on dead end nature of the street and only 9 houses.
2. The project proposes 4 houses to connect to WSPR. The increase is not substantial that would significantly alter level of service at intersection with Western Avenue.
3. The project applicant has appropriately agreed to avoid use of WSPR during construction to avoid heavy loads and damages.

Recommendations:

1. R.O.W. width is unknown and whether pavement is centered within it. This determination should be performed by applicant's surveyor as a walk or trail construction may be required and recall that commitment by the developer.
2. Based on above statement and results determined above it will be better known if a 4-5' wide sidewalk or a mulched trail or other material of narrower width is possible. The existing grades ramp up to the elevated top of streambank.
3. A mulched trail is not handicapped accessible.
4. Any trail or sidewalk in the R.O.W. would require Village DPW maintenance. A concrete sidewalk would be more resilient to flood damage but costlier to eventually costly to repair or replace.
5. Install 10 mph signage as well as watch for pedestrians signage. Both types of signage would benefit existing and new residents if the project proceeds.
6. Consider widening the road.

Full Environmental Assessment Form
Part 3 - Evaluation of the Magnitude and Importance of Project Impacts
and
Determination of Significance

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

Reasons Supporting This Determination:

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

See Attached Reasoned Elaboration Supporting Negative Declaration.

Determination of Significance - Type 1 and Unlisted Actions

SEQR Status: Type 1 Unlisted

Identify portions of EAF completed for this Project: Part 1 Part 2 Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information and Comments received from interested members of the public

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the Village of Altamont ZBA _____ as lead agency that:

A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (sec 6 NYCRR 617.7(d)).

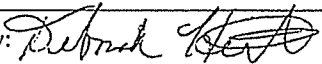
C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: CM Fox Living Subdivision and Request for Area Variances

Name of Lead Agency: Village of Altamont ZBA

Name of Responsible Officer in Lead Agency: Deborah Hext

Title of Responsible Officer: Chairwoman

Signature of Responsible Officer in Lead Agency: 

Date: August 22, 2023

Signature of Preparer (if different from Responsible Officer)

Date:

For Further Information:

Contact Person: Ginger Hannah, ZBA Secretary

Address: 115 Main Street, Altamont NY 12009

Telephone Number: (518) 861-8554 x 17

E-mail: villageadmin@altamontvillage.org

For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

STATE ENVIRONMENTAL QUALITY REVIEW

FINDINGS STATEMENT AND NOTICE OF DETERMINATION

This notice is issued pursuant to 6 NYCRR Part 617, implementing Article 8 (State Environmental Quality Review Act (“SEQRA”)) of the Environmental Conservation Law. The Village of Altamont Zoning Board of Appeals, as Lead Agency, has determined that the proposed action described below will not have a significant impact on the environment and a Draft Environmental Impact Statement (“DEIS”) will not be prepared.

Name of Action: CM Fox Living Solutions, LLC for Area Variance and Subdivision Approval

SEQRA Status: Unlisted Action.

Description of Action and SEQRA Status:

CM Fox Living Solutions, LLC (“Applicant”) is proposing the subdivision of a 13.01-acre lot into eleven (11) lots. The Applicant proposes to build a total of ten (10) residences on the newly created lots (one of the lots is already improved with a single-family home). The property is located on the Northeastly side of the NYS Route 397 (Western Ave.) and Schoharie Plank Road West intersection. The Applicant is also requesting three lot-line adjustments, and area variance from the minimum frontage requirement of 30 feet for a keyhole lot to permit four (4) proposed keyhole lots with approximately 16 feet of road frontage. The proposed project and applications are hereinafter referred to as the “Action.”

The environmental analysis of the Action included related long-term, short-term, direct, indirect, sequential and combined impacts of related and simultaneous environmental factors and started with an analysis of the existing conditions of the project site. The review then analyzed the potential environmental impacts of the proposed changes and actions to determine if the Action may have a significant adverse environmental impact.

In rendering this SEQRA determination, the Lead Agency examined the specific potential environmental impacts of the proposed Action along with the changes to the site and their significance, setting, probability of occurrence, duration, irreversibility, geographic scope, magnitude, and number of people affected, and concludes as follows:

Reasons Supporting this Determination (follows the Full EAF Part 2 – “Identification of Potential Project Impacts” questions):

1. *Impact on Land:* The proposed project will result in a change in land use from vacant open space to a proposed subdivision with development of residential homes.

The action will not involve construction on slopes of 15% or greater (less than 10% for the majority of the site) and there is no exposed bedrock at the site. Further, the proposed action will not involve the removal of more than 1,000 tons of natural material. The action is also

not located in a Coastal Erosion hazard area. It is noted the proposed action may involve construction on land where the depth to the water table is less than 3 feet. However, the Village Engineer recommends that rain gardens can be incorporated in the subdivision design to capture and filter stormwater as a way to address water quality and quantity on the lots.

The eventual subdivision will be developed in phases. During construction, erosion control measures such as silt fence, diversion swales/berms and sediment traps/basins should be installed to mitigate the potential for erosion of soils and downstream siltation. All erosion and sediment control measures will be constructed in accordance with the latest edition of the New York State Standards and Specifications for Erosion and Sediment Controls. Common industry practices, such as the spraying of water to control dust and confining construction work periods to those permitted by the Village, will further mitigate the normal unavoidable short-term impacts associated with construction.

With low sloped lands, and the incorporation of vegetation, good design practices and execution incorporated in the project design, the proposed project is not expected to result in significant adverse environmental impact to land.

2. Impacts on Geological Features: Based upon the site review, the Project site does not contain any unique or unusual landforms (e.g. cliffs, dunes, minerals, fossils, caves). Accordingly, no impacts were identified on Geological Features.
3. Impacts on Surface Waters, Including Wetlands: There are no jurisdictional wetlands on site, and therefore no excavation or development occurring in a wetland. The ZBA identified the creek adjoining Schoharie Plank West as a concern for surface water that may be impacted. Based on the Village Designated Engineer Review, there will be no upland erosion or runoff entering the stream with appropriate erosion controls and sediment controls, and therefore little to no impact to the existing waterbody. The subdivision plan will include a complete grading and erosion and sediment control plan to prevent any off-site impacts to adjoining properties and the identified stream. The plan will be subject to review by the Village Designated Engineer and will incorporate soil stabilization measures, the installation of healthy vegetation and stabilized drainage swales. While it is noted standing water has been observed on the property during heavy rain events, the Village Designated Engineer has opined any ponding will likely be temporary and can be addressed with proper grading and good design.

The Village Designated Engineer has advised that stormwater sedimentation basins can be incorporated in the final subdivision design to function as temporary sediment traps/basins during construction. With this mitigation and appropriate maintenance, potential impacts from this Action will not be significant.

Additional Discussion/Notes: Weeping willows may be considered as plantings during the subdivision process. An authorized person on behalf of the Applicant stated on the record that the Applicant is committed to incorporating rain gardens, swales, and other mitigation measures during the subdivision process.

4. Impact on Groundwater: The Project site will be served by an extension of a municipal water supply and sewer infrastructure. Based upon review by Village officials, the Village has capacity in its municipal water and sewer system to serve the proposed project.

Therefore, the project will not result in significant adverse impacts to groundwater.

5. Impacts on Flooding: The Lead Agency finds the proposed Action may result in development on lands subject to flooding. The proposed action may result in development within or close to the 100-year floodplain, including portion of the driveway access from Schoharie Plank Road West. Therefore, impacts on flooding are considered moderate to large, but according to the Village Designated Engineer, can be mitigated through proper grading and the incorporation of stormwater management features in the subdivision design, including the installation of culverts where necessary to maintain natural drainage patterns. With the incorporation of proper mitigation in the subdivision plans project design, the Lead Agency finds the Action is not likely to result in significant adverse impacts to flooding.

Additional Discussion/Notes: As stated above, the Applicant is committed to all necessary stormwater management facilities to be designed and reviewed during the subdivision process.

6. Impact on Air: The proposed Project does not include any uses that would result in a substantial change in existing air quality nor are any significant sources of air pollution proposed.
7. Impact on Plants and Animals: The US Fish and Wildlife Service's Information for Planning and Consultation (IPaC), New York State Department of Environmental Conservation's Environmental Resource Mapper (ERM), and New York Natural Heritage Program (NYNHP) Program were consulted for lists of potential federal and state threatened and endangered species. This revealed the potential for the Northern Long-eared Bat. The Applicant has confirmed it will limit any tree cutting to the NLEB hibernation period (November 1st through March 31st) to avoid any incidental take of the species.

As a result of there being mitigation measures imposed with respect to the timing of tree removal, there is no significant adverse impact on potential federal and state threatened and endangered plants or animals.

8. Impacts on Agricultural Resources:

There are no prime agricultural soils (categories 1-4) located on the project site, and no unique or irreplaceable agricultural lands will be adversely impacted by this project.

9. Impacts on Aesthetic Resources:

Based on the residential nature of the application and the fact it will not be in sharp contrast to existing land use patterns, the ZBA finds that there will be no significant adverse impact on aesthetic resources.

10. Impacts on Historic and Archeological Resources:

Part 1 of the EAF states that the proposed project is adjacent to the Altamont Historic District. During Part 2 review of the EAF, the ZBA found that the property was a substantial distance from the historic district and would therefore have no significant impact. The ZBA notes that depending on construction traffic, there could be a temporary impact during construction, but found that the temporary impact would not be significant. The EAF notes the potential location of a historic marker near the site, however, the ZBA found that the marker to be a substantial distance from this application, and therefore of not significant impact. As part of coordinated review, the Lead Agency did notify SHPO as a potentially interested party and have not received any comment letters back to date. Accordingly, there are no anticipated significant adverse impacts on historic and archeological resources.

11. Impacts on Open Space and Recreation: No significant adverse impacts to Open Space or Recreation are anticipated as a result of the proposed Project. The land is in private ownership and is not open to the public.

12. Impacts on Critical Environmental Areas: According to the FEAF and the NYSDEC Mapper, there are no critical environmental areas on or near the Project site. Therefore, no adverse impacts to critical environmental areas are anticipated.

13. Impact on Transportation: As with all development projects, there will be an alteration of the present patterns of movement of people and/or goods posed by this project. Construction-related traffic impacts are expected to be temporary, however concerns with the existing capacity of Schoharie Plank West to handle vehicular and pedestrian traffic after construction have been raised. The ZBA also notes the road is currently utilized by pedestrians and bicycles that may be impacted by any increase in traffic. Accordingly, the ZBA identified the potential for a moderate impact from increased traffic on Schoharie Plank West.

Additional Discussion/Notes: To determine if this impact is significant, the ZBA considered the following additional facts as confirmed by the Village Designated Engineer:

Existing conditions:

- Schoharie Plank Road (SPR) is a dead end street owned and maintained by the Village of Altamont. The width of the pavement is around 16' wide. Design standards of this historic road are unknown but has served approximately 9 houses for decades. Current Village standards are 22' wide (Circa 1994 standards long before WSPR was paved).
- To my knowledge SPR has never had a sidewalk. The ability to locate a walk or trail for pedestrians depends on the width of the R.O.W. and the desire to keep impervious surfaces farther than 100 feet from the adjacent stream per current Village Code. The street was built closer than that years ago. A trail could be of pervious construction although concrete sidewalks are generally encouraged by Village code for new subdivisions. Many properties in the Village were developed closer to the streams a long time ago and within 100' as WSPR is now.

- Sight distance is good owing to a straight and limited length. Village code 315-24 states 120' for low traffic streets like SPR and there seems to be much more than that.
- Like other unposted streets the speed limit is 30 mph. Given the limited width and lack of accommodations for pedestrians and 16' width a consideration of a reduced speed limit to 10 mph could be made.
- This street has been served by Village Police, fire and ambulance services.

Project considerations:

- Traffic volume on West SPR can be deemed low based on dead end nature of the street and only 9 houses.
- The project proposes 4 houses to connect to WSPR. The increase is not substantial that would significantly alter level of service at intersection with Western Avenue.
- The project applicant has appropriately agreed to avoid use of WSPR during construction to avoid heavy loads and damages.

Based on the foregoing, the ZBA determines the project does not create the potential for a significant adverse impact from traffic.

14. Impacts on Energy: There are no anticipated significant adverse impacts on energy generation, or use, as part of the action. While development of the Project will require the use of energy and fuel during construction and residents of the homes, nothing in the proposed development contemplates a major change in the use or type of energy that is already present and utilized in the community. In addition, electric service for the Project will not result in any major upgrades to the nearby electrical system, nor will any large on-site utility infrastructure be needed.

15. Impacts on Noise, Odor, and Light: The proposed construction of the driveways and homes will be limited in duration and will not generate noise levels which would be substantially objectionable to the public at large.

Construction related noise shall take place during daylight hours and need to comply with Village ordinances regarding hours of operation. As a result, while some noise and odor from construction equipment during work hours is anticipated during Project construction, these impacts are considered minor and will be temporary in duration.

With respect to light, all lighting fixtures will be governed during the subdivision and site plan review process. Any lights utilized at any of the residential homes shall be those lights typical of a residential development.

With respect to odor, only residential traffic will be generated and there are no other sources of odors at the Project.

There are no anticipated significant adverse impacts on Noise, Odor, and Light as a result of the proposed action.

16. Impact on Human Health: Although the ZBA found that there could be an impact on human health, the ZBA found all questions to be of no, or small impact may occur.
17. Consistency with Community Plans: The Lead Agency finds the proposed residential nature of the Project is consistent with the Village Zoning Law and long-term plan for the development of the community and will not result in a significant permanent population increase. However, the Applicant will require a variance to construct 4 keyhole lots with frontage on Schoharie Plank West and this, by nature, may be considered inconsistent with the Village Zoning law. Regardless, significant adverse impacts to the community's adopted land use plans is not anticipated due to mitigation that has been incorporated in the project design, including use of a single-shared driveway and vegetative buffers.
18. Consistency with Community Character: No significant adverse impacts to the Community Character are expected as a result of the proposed action. The character of the surrounding neighborhood is set by a mix of agriculture and residential, and the proposed subdivision will have no or small impact on the existing character.
19. Impact on Public Services: There are no anticipated significant adverse impacts on public services as a result of the action.

Other Factors and Considerations

Based on the foregoing discussion and the materials in the Record, with respect to 6 NYCRR Part 617.7(c)[Criteria for Determining Significance"], the ZBA has determined that:

- (i) The construction of the Project will not cause a substantial adverse change in existing air quality, ground or surface water quality or quantity or noise levels.
- (ii) The project does not contain a significant habitat area. As described in detail above, with the proposed mitigation, no adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species or other significant adverse impacts to natural resources have been identified.
- (iii) There are no designated critical environmental areas on or near the premises. As a result, no impact on such an area will occur.
- (iv) As described in detail above, the proposal will not result in the creation of a material conflict with a community's current plans or goals as officially approved or adopted.
- (v) As noted above and throughout this document, the project will not result in the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.
- (vi) There are ample sources of electrical energy for the project and no significant utility upgrades are required. As a result, there is no major change in the use of either the quantity or type of energy.

(vii) The proposal changes a now open field to a subdivision but does not create a negative substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses.

(viii) The proposal does not encourage or attract a large number of people to a place or places. The site is of significant size and is capable of accommodating the Project.

The Lead Agency further finds that, as with any development project, the proposed action will create some demand for additional community services (schools, police, and fire). However, this impact is mitigated to a small to moderate impact and rendered de minimus by the following:

a.) Adequate numbers of police, fire, and emergency personnel and modern response vehicles and apparatus presently exist to accommodate the project in the Village of Altamont.

b.) The project will result in a moderate number of children being introduced into the School District.

ZBA FINDS AS FOLLOWS

NEGATIVE DECLARATION

After reviewing the Full EAF and Environmental Assessment Report provide by the Applicant, together with the supporting documentation provided by the Applicant and the information provided during the review of the Project by the Village’s consultants, the Zoning Board of Appeals of the Village of Altamont hereby concludes that an Environmental Impact Statement (EIS) will not be required for the proposed Project because (a) this Action will result in no adverse environmental impacts, or (b) the identified adverse environmental impacts will not be significant (*see* 6 NYCRR § 617.7(a)(2)).

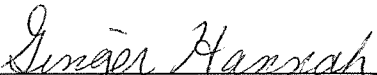
Motion Made By: Danny Ramirez **Second:** Barbara Muhfelder

Vote: All in Favor

Motion Approved

Adopted: August 22, 2023

Filed: September 1, 2023



Ginger Hannah, Clerk
Village of Altamont
Zoning Board of Appeals

RESOLUTION

ALTAMONT ZONING BOARD OF APPEALS

**RESOLUTION, FINDINGS, AND DECISION ON
REQUEST FOR AREA VARIANCE RELIEF**

WHEREAS, the Zoning Board of Appeals for the Village of Altamont (“ZBA”) received an application from CM Fox Living Solutions, LLC (“Applicant”) for an eleven (11) lot subdivision, including area variance relief from the minimum frontage requirement for a keyhole lot; and

WHEREAS, pursuant to Village Law §355-5, the minimum road frontage requirement is 30 feet for a keyhole lot; and

WHEREAS, the Applicant proposes to have four (4) keyhole lots with approximately 16 feet of road frontage each; and

WHEREAS, the Applicant submitted an application on December 13, 2022 (last revised April 2023) (“Application”); and

WHEREAS, the ZBA has reviewed the application together with additional information submitted by the Applicant; and

WHEREAS, the ZBA duly noticed and held a public hearing on the application on June 28, 2023, continued on July 25, 2023, at which time all members of the public wishing to speak were heard; and

WHEREAS, the ZBA has reviewed and considered all public hearing comments that were received on the application, and additional information relevant to the application and applicable standard of review.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS BY THE ZONING BOARD OF APPEALS OF THE VILLAGE OF ALTAMONT, ALBANY COUNTY, NEW YORK:

1. The ZBA has considered the standards for an area variance contained in the Village of Altamont Zoning Law Section 355-52(D)(3)(b)(1)-(5) and hereby adopts the determination and findings annexed hereto.
2. The ZBA does hereby **GRANT** the application for area variance relief.

WHEREUPON, this Resolution was declared adopted by the Village of Altamont Zoning Board of Appeals:

Motion Made By: James Sullivan **Second By:** Simon Litten

Vote: Five Members in Favor, 2 Members Opposed

Motion Approved.

WHEREUPON, after the motion to Grant the application was approved, the ZBA decided to amend the approval with the following conditions:

1. The common driveway to the four (4) keyhole lots must have sufficient vegetation and screening for the adjacent property owners.
2. The Applicant shall install signage at the end of the common driveway to provide caution and notice of potential pedestrians and others.
3. The Applicant shall install rain gardens and swales, and the property owners of the new lots shall be responsible for upkeep and maintenance.

WHEREUPON, The ZBA authorizes and requires the ZBA Chairman and its Secretary and Attorney to take the appropriate steps to effectuate this resolution including any filing and distribution requirements.

WHEREUPON, this Amendment with Conditions was declared adopted by the Village of Altamont Zoning Board of Appeals:

Motion Made By: Danny Ramirez **Second By:** James Sullivan

Vote: All in Favor.

Motion Approved.

STATE OF NEW YORK }
COUNTY OF ALBANY }
VILLAGE OF ALTAMONT }

I have compared the preceding copy with the original Resolutions on file in this office adopted by the Village of Altamont Zoning Board of Appeals at a meeting held August 22, 2023 and I DO HEREBY CERTIFY the same to be a correct transcript therefrom and of the whole of the original. I further certify the vote thereon was as follows:

MOTION TO APPROVE

MEMBERS PRESENT	MEMBERS ABSENT	VOTE
7	0	5-2, in Favor

MOTION TO AMEND WITH CONDITIONS

MEMBERS PRESENT	MEMBERS ABSENT	VOTE
7	0	7-0, in Favor

Witness my hand and the seal of the Village of Altamont, this 1st day of September, 2023.

Ginger Hannah

GINGER HANNAH, CLERK
VILLAGE OF ALTAMONT
ZONING BOARD OF APPEALS

RECEIVED
LB SEP 01 2023

VILLAGE OF ALTAMONT

AREA VARIANCE FINDINGS WORKSHEET

No area variance will be granted without consideration by the board of the following factors.

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties:

Board members considered whether granting the requested variance would have an impact on the neighborhood and would be a detriment to the 2 property owners on either side of the proposed common driveway. A majority of the board members found granting the variance would not change the character or be detrimental to neighboring property owners. Specifically, the ZBA found that based on the zoning classification of the property as R-20, as well as the fact that 2 keyhole lots could be permitted without variance relief, that there would not be an undesirable change to the character of the neighborhood. The ZBA concluded that it will require reasonable conditions, including requiring vegetative buffers, screening for adjacent property owners and other mitigation measures to further protect neighboring property owners and preserve the character of the neighborhood.

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:

The board discussed an alternative by which there was no access off Schoharie Plank West Road but found that could result in more lots being proposed as well as a wider street that would be required. The board also noted that there could potentially be a through street from Schoharie Plank West, all the way through the subdivision to Western. Based on the board's discussion, the ZBA found that both alternatives would have more of an impact on the neighborhood, environment and neighboring property owners. Therefore, the ZBA concluded the benefit sought by the applicant (i.e., a subdivision with access to 4 lots from Schoharie Plank West) cannot be achieved by another feasible alternative.

3. Whether the requested variance is substantial:

The ZBA finds that while the numerical request of the variance may be somewhat substantial, that the actual relief of permitting 4 residential lots instead of 2 lots (that would be allowed without the need for variance relief) is not substantial.

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood.

The ZBA finds that the overall subdivision could have an impact on the physical or environmental conditions of the neighborhood, however, the actual variance relief (permitting 4 keyhole lots instead of 2 keyhole lots) will not have an adverse impact on the physical or environmental conditions in the neighborhood. The common access drive would be the same if there were 2 keyhole lots proposed on Schoharie Plank West instead of the 4 that are proposed, and the board found that any additional traffic from 2 more

residential lots would not result in a significant adverse impact. The ZBA refers to the SEQR determination of significance for additional findings on physical and environmental conditions in the neighborhood.

5. Whether the alleged difficulty was self-created:

The ZBA finds that the alleged difficulty is self-created. This factor is relevant but does not necessarily preclude the granting of an area variance.

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

August 22, 2023

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

Re: Opposition to Significant Variance For Major Subdivision of Tax Map #37.14.-3-6.1 (Troy Miller/C M Fox Living Solutions LLC)

Board Members:

We offer the following argument relevant to tonight's Altamont Zoning Board of Appeal (Altamont ZBA) public hearing concerning area zoning variance determination, SEQRA assessment, Lot Line Amendment Waivers, and subdivision application related to the above referenced property. Our objections to the Altamont ZBA's draft proposed decisions are based on both procedural irregularities and on the merits, as supported by Village and Town law and precedent.

I. We have six procedural objections:

1. The Town of Guilderland ZBA was improperly excluded from this process. We maintain that the Altamont ZBA should obtain input from the Town of Guilderland as an interested party for a coordinated review of all issues. The proposed subdivision is directly adjacent to our Guilderland property. Indeed, our property will be adversely affected directly by proposed Lots 1, 2, 6, and 7, which share property lines with the subject property seeking variances, subdivision approval, and SEQRA clearance.
2. The Altamont ZBA has not properly classified this as a Class 1, SEQRA action. This action was initially properly classified as Type I action pursuant to 6 NYCRR §617.4 because the subject land is substantially contiguous to recognized historic areas, the Mohawk Valley Heritage Corridor and the Altamont Historic District. The subject property is also adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory and within five miles of a state park, John Boyd Thacher Park. Significantly, additional archaeological and historic sites have been identified on the project site, namely Schoharie Plank Road itself. Finally, the proposed site is within walking and biking distance of the Village's Bozenkill Park on Gun Club Road.

3. The Altamont ZBA cannot make a reasonable determination on the environmental impact of the proposal without the complete evidence it reasonably requested from the owner/developer (Troy Miller/ C M Fox Living Solutions LLC). The owner/developer has refused to provide this key environmental evidence concerning the scope and impact of the project, improperly pressuring the Altamont ZBA to first approve its variance request. In particular, the owner/developer has refused to specify the driveway widths and turnarounds until the Altamont ZBA approves its variance request. Such information is reasonably necessary for the Altamont ZBA to make its threshold determination on the variance requests, environmental impact and related safety issues. The owner/developer also fails to provide an explanation of how it will monitor the number of acres which will be disturbed by the proposal, never clarifying its methodology for doing so or even which of the ten new proposed houses on the involved currently agricultural (hay) lands have basements which will require additional excavation. Likewise, the owner/developer refuses to provide short-term, long-term, or cumulative stormwater runoff calculations which are crucial to the ZBA's consideration of environmental impact. The owner/developer similarly refuses to offer specific profiles of proposed driveways which will help the Altamont ZBA assess the interrelated sewage, water usage, and runoffs associated with the proposal. The owner/developer also failed to submit a requested study on the level of the water table on the property. The owner/developer did not fully comply with the Altamont ZBA's request for blow ups and consents for lot adjustments associated with the project. For example, although the owner/developer cites a purchase deal made with a neighbor on Western Avenue adjacent to Proposed Lot 3 to obviate the need for a frontage width variance for the keyhole entrance to proposed lots 1-3 on Western Avenue, no final record of this land conveyance or the incentives provided to assure it is part of the record. Such detail is necessary to allow meaningful public input and any appellate review of the ZBA's determination. Likewise, the owner/developer refuses to disclose utility and sump pump discharge locations, information which is necessary to the ZBA's environmental assessment. Finally, the owner/developer's agent conceded at the September 27, 2022 hearing, which was not open to the public, that "I'm not sure what the distance requirement is for site (sic.) distance, but I know we meet it with all the driveways." Nonetheless, it is unclear from the record if a valid sight distance assessment was submitted so that the ZBA can properly assess this pertinent safety factor.

All this information is necessary in order for the Altamont ZBA to make determinations of the short-term, long-term, and cumulative impacts of the applications before it.

4. The public should have access to the video and minutes of the July 25, 2023 ZBA hearing concerning the proposal, which should, along with minutes and recordings from previous meetings, be made part of the record. We could not attend all the previous hearings in person and reasonably relied on the ZBA's practice of recording them and publishing transcribed minutes for comments before the ZBA makes its determinations. Likewise the recording and minutes from tonight's meeting should be part of the record to allow for any necessary review of ZBA determinations.

5. In light of public statements by its members and in the interests of transparency, the ZBA should explain on the record why it can render impartial decisions in this matter. It should also disclose publicly any prior relationships with the owner/developer. Throughout the public hearings, ZBA members have made comments, the tone of which raise legitimate cause for concern that the ZBA has prejudged the pending applications, including: suggesting to the public that neighbors should be grateful that only eleven homes not twenty-four will be built; assuring the public that Troy Miller has done excellent work in other subdivisions and this subdivision, too, will be done to high standards, with collateral increased property values; and explaining the ZBA's role to the public to the effect of, "We try to work with developers seeking variances, but we can't really ever just say, "No." The members making these remarks should recuse themselves from further consideration of the pending applications and reviews.

6. Any determination that the Altamont ZBA makes concerning the "significance" of environmental impacts will be untimely since more than 20 (twenty) calendar days have passed since the Altamont ZBA established itself as the lead agency.

The ZBA should remedy these procedural deficits before making any decisions on the pending variance requests, subdivision application, SEQRA assessment, or lot line waiver requests.

II. We also offer this argument on the merits:

A. The Variance Requests Should Be Denied Under Existing Village Ordinances and Law and Persuasive Precedent.

The granting of a variance is reserved for unusual or exceptional circumstances. "Unless great caution is used and variances are granted only in proper cases, the whole fabric of town-and city-wide zoning will be worn through in spots and raveled at the edges until its purpose in protecting property values and securing the orderly development of the community is completely thwarted." *Verillo v. Zoning Bd. Of Appeals of Town of Branford*, 155 Conn. App. 657, 111 A.3d 473 (2015). The Zoning Board must adhere to its own precedent to avoid making determinations which are arbitrary and capricious. *Knight v. Amelkin*, 68 N.Y.2d 975 (1986). Approving a subdivision of this scope and nature would set a detrimental precedent which would provide a foundation for similar requests. Indeed, new owners in this requested subdivision could make future requests for additional subdivision variances.

In determining whether an area variance should be granted, Section 7-712 of the New York Village Law requires the zoning board to weigh the benefit to the applicant if the variance is granted with the health, safety, and welfare of the neighborhood community if relief is granted. Of course, this analysis should also consider relevant state and local zoning and environmental law requirements. A board must consider:

1. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the area variance;

The record supports and the ZBA can take judicial notice that contiguous properties to the proposed subdivision have one home on multiple acres of country land. *See, e.g., Tax Parcels 37.15-2-2.2 (Gun Club Road); 37.15-1-2.1 (Marion Court)*. Beside the proposed subdivision, no

contiguous properties contain keyhole lots with multiple homes. Neighbors, including us, relied on existing zoning frontage limitations in purchasing properties next to the current fauna and flora abundant vacant hay fields, with limited road frontage for future development on the subject property.¹ Squeezing ten new homes onto this property in violation of existing zoning ordinances is detrimental to the neighborhood's character. The proposed density profile is inconsistent with the neighborhood's rural character. See *Paniccia v. Volker*, 133 A.D.2d 404 (Second Dept. 1987)(upholding Zoning Board of Appeals denial of area variance to subdivide lot for residential building on proposed new lot where neighbors relied on current zoning restrictions in purchasing their properties; notwithstanding loss of economic profit to owner if lot was subdivided, denial of variance would not prevent owner from using lot for a single structure under current zoning ordinance; and proposed lot adjustment: did not meet village zoning ordinance street frontage requirement, would result in traffic congestion and increased danger of accident, and proposed house on new lot would be long and narrow and inconsistent with character of neighborhood.); *D'Souza v. Board of Appeals of Town of Hempstead*, 140 N.Y.S.3d 774 (2d Dep't 2021) (upholding ZBA variance denial where ZBA properly balanced factors and concluded that sublots which did not meet ordinance frontage width requirement).

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

The applicant, a sophisticated developer who was aware of existing zoning limitations when he purchased the property, seeks to make a profit off his investment property and, possibly, move his family into a new family compound in it. The record includes possible alternative access sites and a reduced scope in the project, with fewer houses, which the developer could pursue. The land will still be available for allowable residential housing within the Village's zoning ordinances if the pending variances, subdivision request, and lot line adjustments are denied in their present form.

3. whether the requested variance is substantial;

This is not in dispute. Seeking to build ten new homes in a relatively confined area is requesting a substantial variance. The current zoning frontage requirements and limits on numbers of entrances to a subdivision were designed to limit this type of development overreach. Notably, contrary to Village Zoning Ordinance, the variance seeks permission to have five entrances to the proposed subdivision.² The proposal does also not meet the zoning frontage requirements for

¹ Lots 5, 6, 7, and 8 do not meet the Village's zoning requirement, based on aesthetics and safety concerns, that each property have 30 feet of frontage on the road. Lot 3 meets this requirement only if the Altamont ZBA gives tacit approval to a recent private purchase deal involving the owner/developer, the details of which are not in the record, concerning proposed lot changes to a contiguous property, the owner of which is not a party to the pending proceedings. A property owner who obtains a land use approval must be made a party to a proceeding or action contesting the permit or approval. *Wittenberg Sportsmen's Club, Inc. v. Town of Woodstock Planning Board*, 16 A.D.3d 991 (3d Dep't 2005).

² Four entrances will be on Western Avenue. One entrance will be for the existing house on proposed Lot 9. A second entrance will be for the house on proposed Lot 10. A third entrance

Lots 5, 6, 7, and 8. The owner/developer also asks the Altamont ZBA to condone a private deal designed to comply with the Village Zoning Ordinance frontage requirement for Lot 3 despite other neighbors' reliance the zoning restrictions in place for their protection when purchasing their properties.

4. whether the variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

The record is replete with testimony and letters concerning water runoff and flooding which the developer has not reasonably refuted. Likewise the habitat of deer, fox, coyotes, rabbits, opossum, birds, rabbits, mice, and endangered bats which live in or near the property will be threatened. The ZBA's focus on mitigation approaches in answering this threshold variance inquiry is misplaced. In the first instance, the ZBA's role, by law, is to assess the project's adverse impacts associated with the variance request, not to seek to mitigate those impact through negotiations with the developer to the detriment of the neighboring community it serves. As discussed below, consideration of mitigation or Conditioned Negative Declarations, if available at all, properly comes after a determination on the area variances and lot line adjustment requests, as part of a secondary SEQRA review process.³ In any event, the Zoning Board may deny an application for an area variance even in the absence of physical environmental harm to the neighborhood or a negative declaration pursuant to the State Environmental Quality Review Act. *Hurley v. Zoning Bd. Of Appeals of Village of Amityville*, 69 A.D.3d 940, 893 N.Y.S.2d 277 (2d Dep't 2010).

5. whether the alleged difficulty was self-created.

The developer/owner is free to use his land for residential purposes within existing zoning limits. The developer has created the alleged difficulty by his own overblown plans for this property which conflict with zoning limits and the neighborhood's community character.

The existence of a self-created hardship does not entitle the landowner to demand a variance. *Matter of Cowan v. Kern*, 41 N.Y.2d 591. Where an owner seeks a variance from minimum

will be for proposed Lot 11. Lots 1-3 will share a third entrance on Western Avenue. Lot 4 will have a separate fourth entrance. The fifth entrance will be for Lots 5 -8 on Schoharie Plank Road. Village Zoning Law § 355-27(F)(1)(b) discourages subdivision proposals with more than two entrances on public roads, given traffic flow and environmental concerns.

³ Indeed, Conditioned Negative Declarations are inappropriate in "Type I" SEQRA actions. This action was initially properly classified as Type I action pursuant to 6 NYCRR §617.4 because the subject land is substantially contiguous to a recognized historic area, the Mohawk Valley Heritage Corridor and the Altamont Historic District. The subject property is also adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory and within five miles of a state park, John Boyd Thacher Park. Significantly, additional archaeological and historic sites have been identified on the project site, namely Schoharie Plank Road itself. See Applicant's Full Environmental Assessment Form and DEC EAF Mapper Summary Report concerning the subject property.

frontage and lot requirements, as a practical matter he is required to show he could not use his property without coming into conflict with restrictions of ordinance; the fact that a parcel could be used more profitably by an owner if a requested variance is granted, is insufficient to grant a variance. *Graziano v. Scalafani*, 143 A.D.2d 664 (Second Department 1988). Courts will not interfere with a determination made by a zoning board which denies a requested area variance where the need for a variance results from the owner's decision to subdivide his property to create one or more nonconforming uses." *Matter of 113 Hillside Ave. Corp. v. Zaino*, 27 N.Y.2d 258 .

For all these reasons, as a threshold matter, the ZBA should deny the variance and lot line adjustment requests.

B. The Village ZBA Should Issue A Positive Environmental Declaration Pursuant To SEQRA Guidelines.

The proposed subdivision will result in several "significant" adverse environmental impacts, short-term, long-term, and cumulative impacts of magnitude and importance, requiring the development of an Environmental Impact Statement. Despite boiler plate assurances to the contrary, the Altamont ZBA's draft SEQRA Findings Statement and Notice of Determination prepared by the Altamont ZBA before the public August 22, 2023 hearing does not acknowledge or reflect meaningful consideration of and a "hard look" at the unanimous fact-specific opposition to the variances and subdivision from the public. We encourage ZBA board members to remain open to such a hard look at tonight's meeting and subsequent deliberations. Limited modifications to the proposal , including non-binding verbal assurances from the owner/developer and its agent, should not be considered mitigation which affect the Altamont ZBA's determination of environmental significance of the overall project. See, *Shawangunk Mountain Environmental Association v. Planning Board of the Town of Gardiner*, 157 AD2d 273 (3d Dept 1990) (finding that a negative environmental declaration was inappropriate where the developer agreed to some mitigation, but the overall scope of the project raised environmental concerns.)

The significant adverse environmental impacts, individually and collectively, include, but are not limited to:

- excessive harmful water issues, including snow, storm and sump pump water runoff, to the point of flooding in some areas;
- detrimental impact to carriage road, Schoharie Plank Road, by heavy construction equipment;
- substantial increase in vehicle and foot traffic on Schoharie Plank Road and Western Avenue , both during proposed two year construction period, and afterwards from resident families ;
- significant interrelated safety risks associated with non-conforming and multiple ingress/egress points to proposed subdivision, especially with a group home kitty-corner to the proposed project;;

- significant increase in noise levels associated with construction and post-construction, including noise associated with ten additional families living in area;
- significant destruction of fauna and vegetation, including deer, fox, rabbits, mice, birds, opossum, coyote, endangered bats and loss of at least .47 acres of forest land;
- significant disruption within recognized area of important historic, archaeological, and aesthetic area importance;
- significant risk to additional children in proposed homes who will travel to nearby Bozenkill Park and Village sponsored programs without the benefit of complete safe sidewalks;
- a substantial change in the use of the area from an agricultural hay field to ten new homes on small lots not consistent with neighboring property, including our home on multiple acres;
- significant deviation from pastoral, rural border between Village of Altamont and Town of Guilderland, inconsistent with Altamont's Comprehensive Plan.
- significant additional burden to Altamont's already compromised water supply;
- significant health risks associated with unrestricted pesticide use on the subject sublots;

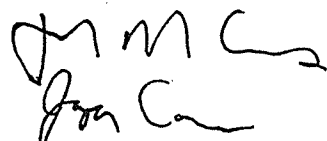
All of these impacts were well supported by letters and hearing testimony from neighbors with first hand knowledge. Their individual and collective adverse impact is of such magnitude and importance to require a positive SEQRA declaration .

CONCLUSION

For all these reasons, the requested variances, lot line adjustments, and subdivision approvals should be denied. Since this is properly considered a Type I SEQRA action, a Conditional Negative SEQRA Determination is inappropriate. Indeed the ZBA need not reach the SEQRA determination since the legal relevant factors weigh in denying the variance request in the first instance. If the variance request is not denied, the ZBA should nonetheless issue a positive SEQRA declaration and require a complete Environmental Impact System before taking any further action on the pending requests.

We appreciate the ZBA's consideration of these candid remarks. We fear that this matter is headed to emotionally and financially costly future adversarial proceedings which we suggest might be avoided through community mediation attempts with a mutual agreeable mediator with experience in zoning and environmental disputes. We are open to such a collaborative approach moving forward.

Sincerely,



Joseph and Jaya Connors

NOTICE OF PUBLIC HEARING

Village of Altamont

PLEASE TAKE NOTICE that the Village of Altamont Zoning Board of Appeals will hold a public hearing on August 22, 2023 at 7:00 p.m. at the Altamont Village Community Room, 115 Main Street, Altamont, New York, to hear all interested persons on the proposed application of Patty Doak for a minor Subdivision pursuant to Article II of the Village of Altamont Zoning Law, Subsection 315-9 through Subsection 315-13. The property, zoned R-20, is identified as Tax Map #37.14.2.5 and is located at 138 Western Avenue in the Village of Altamont.

All persons desiring to speak either on behalf of, or in opposition to, said application shall be heard by either attending the public hearing or by submitting written comments in advance of the public hearing to the ZBA Secretary. Copies of the application materials are available for review at the offices of the Village Clerk located at 115 Main Street, Altamont, New York, 12009 during normal business hours and will be available on the Village website by Friday, August 18, 2023 at www.altamontvillage.org.

Dated: August 8, 2023

Gary Goss
Building Inspector and Code Enforcer
Village of Altamont

Deborah Hext
ZBA Board Chair
Village of Altamont

Abutting
AFD
DPW

VILLAGE OF ALTAMONT

APPLICATION FOR SUBDIVISION

RETURN TO:
 Village of Altamont
 PO Box 643 115 Main Street
 Altamont, NY 12009
 (518) 861-8554

FEES:
 Major Sub-division Application Fee \$ 1,500.00
 Minor Sub-division Application Fee \$ 150.00
 Fee in lieu of 10% Park/Green Space Fee
 \$ 1,500.00 per lot (payable with Building Permit Application)

<p>APPLICANT INFORMATION:</p> <p>Name: <u>Patty Doak</u> division: _____ Address: <u>37 Glenwood St</u> <u>Albany NY 12203</u> Daytime Phone: <u>518-810-3080</u></p> <p>RELATIONSHIP TO PROPERTY</p> <p><input checked="" type="checkbox"/> Owner <input type="checkbox"/> Contract Vendor <input checked="" type="checkbox"/> Other - Explain: <u>Property in a Trust</u></p>	<p>SUB-DIVISION INFORMATION:</p> <p>Name of Sub-division: _____</p> <p>General Location: <u>138 Western Ave. Altamont</u> Zoning: <u>R 20</u> Total Acreage: <u>2.50</u> Tax Map Number(s): <u>37.14-2-5</u></p> <p>Presenter (if other than applicant): _____ Address: _____ Daytime Phone: _____</p>
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PROPERTY DESCRIPTION:

Generally describe any easement or other restrictions on the property: None

Does the site contain any of the following : Stream Pond Other Body of Water Wetlands
 Floodplain Steep Slopes Historic/Archeological Resources

If yes, elaborate: _____

Water Source: Well Hook-up to existing Village Water Extension of Village Water District

Sewer Source: Septic Hook-up to existing Village Sewer Extension of Village Sewer District

Will there be any land dedicated to the Village for a park or open space commonly owned by a Homeowner's Association? If yes, what is the percentage and proposed ownership of the open space? No

____ MAJOR SUB-DIVISION - 3 or more lots

X MINOR SUB-DIVISION - 2 lots

CONCEPT PLAN

This application must be accompanied by 10 copies of a concept plan containing ALL INFORMATION required by the Village of Altamont Sub-division Regulations and a check payable to the Village of Altamont, in the amount required by the above application fee.

APPLICATION FOR SUBDIVISION PAGE 2

Please note: The applicant/owner is responsible for payment of engineering fees for services deemed necessary by the Village of Altamont Planning Board.

Has applicant satisfied NYS Storm Water Management Requirements? Not Applicable

Within 60 day after final approve and endorsement of the sub-division plat the applicant must file the plat for recording with the County Clerk. If not recorded within such time period, final approval of the plat shall expire and become null and void. To complete the Village process, the Village shall receive two copies of the said file plat.

AGREEMENT

The applicant hereby certifies that he/she is the owner of record for the above listed property or has duly authorized, in writing, by the owner of record to make this application. Further, by signing this application, the owner gives permission for a representative(s) of the Village of Altamont to walk the property for the purposes of conducting a Site Review.

SIGNATURE OF APPLICANT: Patty Noak DATE: 6/22/23

SIGNATURE OF OWNER: [Signature] DATE: 6/22/23

OFFICE USE ONLY

APPLICATION RECEIVED ON: _____ Concept Hearing set for: _____

FEE RECEIVED: _____

Approved for concept hearing:

_____ Planning Board Chair

Notifications made on:

_____ Albany County Planning Board

Materials sent to:

_____ Village of Altamont Public Works

_____ Board members

_____ Altamont Fire Department

_____ Village Attorney

_____ Board Liaison

APPLICATION FOR SUBDIVISION PAGE 3

CONTENTS OF THE SKETCH PLAN REQUIRED:

The sketch plan shall be a scale drawing, based on tax map information or some other similarly accurate base map, and other supporting documentation which contains the following:

1. The subdivision name or title, the entire tract shown on one sheet; North direction, which shall be oriented toward the top of the plan; the plan date; and the label "Sketch Plan";
2. The subdivision boundaries and the owners of all contiguous properties;
3. The zoning classification and tax map number(s) of the property to be subdivided, and all of contiguous;
4. The total acreage of the subdivision, the proposed number, layout and size of lots, and the streets;
5. Any proposed recreation areas, drainage systems, water supply, waste water and storm water systems and any other proposed utilities;
6. All the utilities available and all the streets, whether proposed, mapped or built, adjacent to the tract;
7. All existing restrictions on the use of land, including easements and covenants;
8. All existing structures, wooded areas, State or Federal wetlands, watercourses, and other significant features within the part to be subdivided and within two hundred (200) feet of the proposed subdivision boundaries;
9. The building envelope, which is determined by showing all the yard and other applicable setbacks in which proposed structures may be built;
10. If applicable, the location and required setbacks from watercourses, wetlands, angle of repose reserves, protected slope reserves, and the 100 year floodplain. All federal wetland delineations must be approved by the Army Corps of Engineers and all New York State wetlands delineations must be approved by the New York State Department of Environmental Conservation;
11. Topographic conditions shall be shown by contours which shall also be indicated at intervals of not more than 10 feet; and
12. Any other information the subdivision reviewer or the Planning Commission deems appropriate.
13. A vicinity map shall appear on the face of the sketch plan.

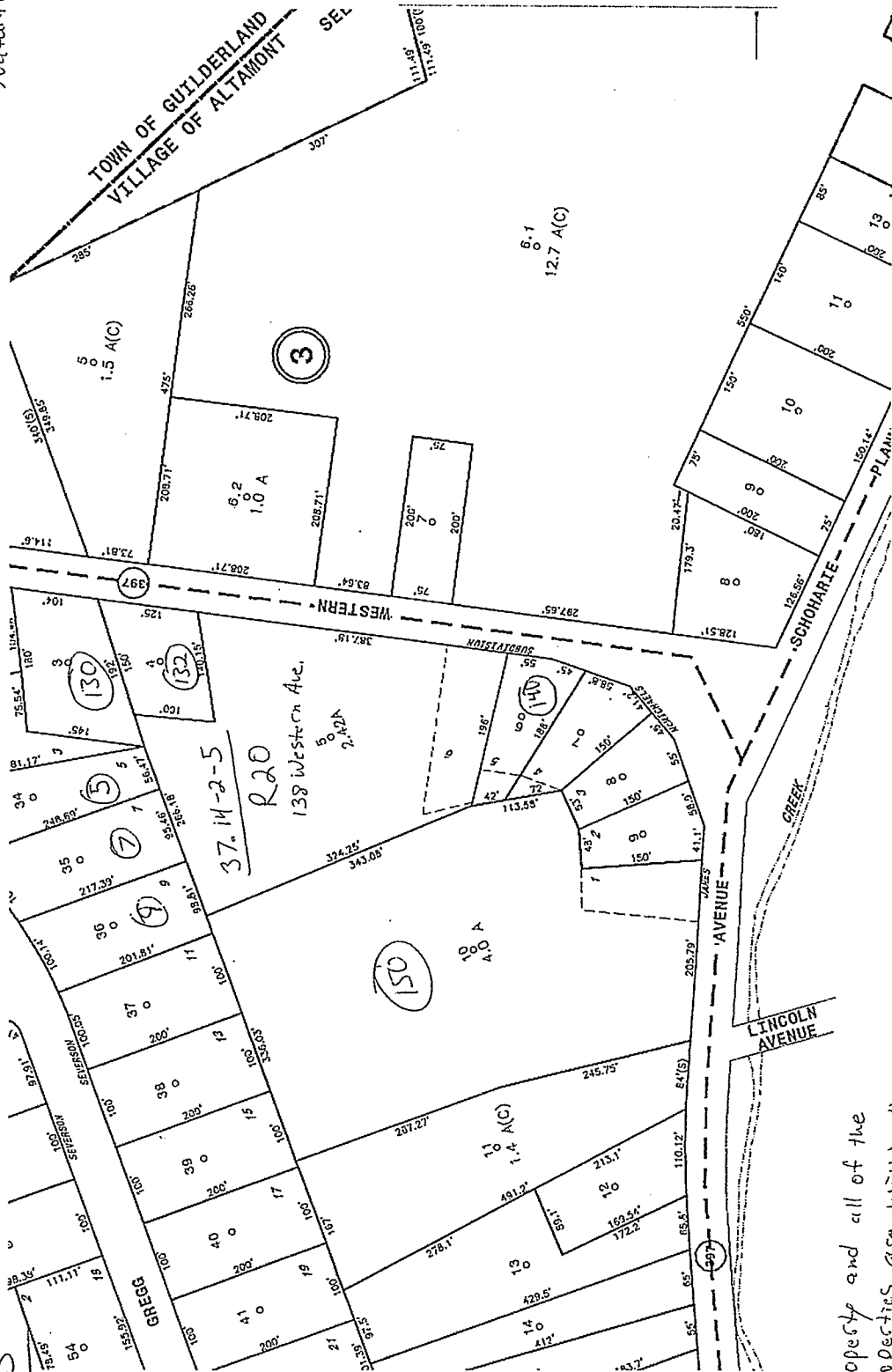
Utilities at Street:
Sewer, Water &
Natural Gas



138 Western Ave. "Minor Subdivision"

Sketch Plan

Date: 6/1/2023



- 132 Western Ave.
Andrew Huggins
37.14-2-4
- 130 Western Ave.
Christopher Lindell
37.14-2-3
- 5 Gregg Rd.
Richard F. Bianchi Jr.
37.14-2-34
- 7 Gregg Rd.
Scott Snyder
37.14-2-35
- 9 Gregg Rd.
Todd Gilbert
37.14-2-36
- 150 Western Ave.
Center for Disability
37.14-2-10
- 140 Western Ave.
Adella W. Spohn
37.14-2-6

* The Subject property and all of the
contiguous properties are within the
R20 Zoning District

Ginger Hannah

From: Pete Baran <baranpete@gmail.com>
Sent: Thursday, August 17, 2023 10:14 AM
To: villageadmin@altamontvillage.org
Subject: 138 western ave

Hi,

My name is Peter baran and I live with my family at 15 gregg road. I am unable to make the 8/22 meeting due to vacation.

I am writing to share my major concerns regarding the subdivision for this property. I have no concerns if the field visible from the road is used to build a house but I do have concerns if any of the woods behind the field are knocked down. 1) I believe that a revolutionary soldier is buried in these woods. It would be a travesty if that was disturbed. It's a part of American history and something altamont resident should be proud of. And 2) having my backyard against those woods I can tell you the vast wildlife that uses those woods as a path and safe haven. Yesterday a doe and baby deer were resting there. Please do not further disrupt the amazing wildlife in this area. 3) people move to altamont to get away from the construction and traffic in guilderland. Please keep this in mind and do not ruin our quant village.

I think a good compromise for the zoning board would be to say, you can use field but not woods. Frankly, I would be very upset if the zoning board approved any subdivision allowing those woods to be knocked down and the revolutionary soldiers final resting place to be moved or disturbed. Please do the right thing.

Thanks for your time. I am available to discuss anytime

Peter baran
518 339 7377

Ginger Hannah

From: cduffy3938@aol.com
Sent: Friday, August 18, 2023 11:42 AM
To: villageadmin@altamontvillage.org
Subject: Public Comment Application of Patty Doak Subdivision 138 Western Avenue in the Village of Altamont

Dear Altamont Zoning Board of Appeals,

Please be sure that there will be no encroachments, takings, obstructions to the public accommodations sidewalks and/or public right of way to protect and preserve community inclusion along Western Avenue aka Interstate Route 20 to protect and allow future and present use to pedestrians with disabilities in the application of Patty Doak for a minor Subdivision pursuant to Article II of the Village of Altamont Zoning Law, Subsection 315-9 through Subsection 315-13. The property, zoned R-20, is identified as Tax Map #37.18-1-14 and is located at 138 Western Avenue in the Village of Altamont.

Western Avenue needs your protection.

On or about 8/7/2023, a Final Rule was issued by the Federal US Access Board to protect pedestrians with disabilities <https://www.federalregister.gov/documents/2023/08/08/2023-16149/accessibility-guidelines-for-pedestrian-facilities-in-the-public-right-of-way>

Additionally, there are NYSDOT regulations, New York State Vehicle and Traffic laws and even public service announcements addressing pedestrian safety.

The protection of the public accommodations requires oversight and protection by the Town for today and future residents. Please do not make decisions which block disabled from community participation. Please deny this application if it fails AASHTO and/or the 8/7/2023, a Final Rule was issued by the Federal US Access Board to protect pedestrians with disabilities <https://www.federalregister.gov/documents/2023/08/08/2023-16149/accessibility-guidelines-for-pedestrian-facilities-in-the-public-right-of-way> and/or New York State and/or Federal roadway and highway and/or traffic laws.

Very truly yours,
Christine Duffy
15 Fletcher Rd
Albany, NY 12203
Town of Guilderland resident using Western Ave encompassing the Village of Altamont

NOTICE OF PUBLIC HEARING

Village of Altamont

PLEASE TAKE NOTICE that the Village of Altamont Zoning Board of Appeals will hold a public hearing on August 22, 2023 at 7:00 p.m. at the Altamont Village Community Room, 115 Main Street, Altamont, New York, to hear all interested persons on the proposed application of Chris Wolff for a Special Use Permit pursuant to Article V of the Village of Altamont Zoning Law, Subsection 355-38k to allow a 1 bedroom in-law apartment to be constructed in the basement of the single family home. The property, zoned R-10, is identified as Tax Map #48.06-3-8 and is located at 982 Altamont Boulevard in the Village of Altamont.

All persons desiring to speak either on behalf of, or in opposition to, said Special Use Permit Application shall be heard by either attending the public hearing or by submitting written comments in advance of the public hearing to the ZBA Secretary. Copies of the application materials are available for review at the offices of the Village Clerk located at 115 Main Street, Altamont, New York, 12009 during normal business hours and will be available on the Village website by Friday, August 18, 2023 at www.altamontvillage.org.

Dated: August 8th, 2023

Gary Goss
Building Inspector and Code Enforcer
Village of Altamont

Deborah Hext
ZBA Board Chairman
Village of Altamont

Abutting
AFD
DPW

Village of Altamont
P.O. Box 643 Altamont, NY 12009
Telephone (518) 861-8554 Fax (518) 861-5379

Applicant Checklist for Special Use Permit (SUP)

Return to:

Village of Altamont
PO Box 643 115 Main Street
Altamont, NY 12009
(518) 861-8554 Ext 13

Fees:

\$350.00
(Payable at time of Submittal to Village)

APPLICANT INFORMATION:

Name: Chris Wolff

PROPERTY INFORMATION:

Owner: Chris Wolff

Address: 982 Altamont Blvd.

Location: 982 Altamont Blvd.

Altamont, NY 12009

Tax Map #: 48.06-3-8

Daytime Phone #: 518-572-7852

Zoning: R10

Date: _____

Acreage: 0.2 Acres / 8712 sq. ft.

Request for a: SUP

TO BE SUBMITTED:

- 1) 15 copies of signed & notarized SUP application
- 2) 15 copies of completed SUP Conditions Form
- 3) 15 Copies of conditional purchase contract or rental agreement if applicable N/A
- 4) 15 copies of project narrative statement containing the following: reasons which necessitate the need for a SUP, including a brief detailed description of the project
- 5) 15 copies Architectural drawings of proposed project
- 6) 15 copies of survey or plot plan (including a North Arrow) showing proposed project with
 - side setbacks
 - front and rear setbacks
 - all existing buildings
 - location of proposed construction
 - total size of parcel
 - all topographic elevations necessary to show proposed SUP
- 7) 15 copies completed, signed SEQRA if applicable N/A
- 8) 15 copies of Sign Permit if applicable N/A
- 9) 15 copies of Building and Zoning Permit if applicable We will get the building permit once the SUP is approved.
- 10) Escrow Fund for Legal/Engineering & other Fees as appropriate (determined by Planning Bd Chair)

OTHER AGENCY APPROVALS OR RECOMMENDATIONS AS REQUIRED

- 1) NYS Department of Transportation 518-765-2841
- 2) Albany County Health Department 518-447-4631
- 3) Albany County Planning Board 518-447-5660

VILLAGE OF ALTAMONT PLANNING BOARD

115 MAIN STREET, P.O. BOX 643, ALTAMONT, NY 12009 PHONE (518) 861-8554 FAX (518) 861-5379

APPLICATION FOR SPECIAL USE PERMIT

Return to: Village of Altamont
115 Main Street, PO Box 643
Altamont, NY 12009

Fees: TBD
(payable at time of submission)

A. STATEMENT OF OWNERSHIP AND INTEREST

THE APPLICANT(S) Chris Wolff and Rebecca Wolff
is (are) the owner(s) of property situated at the following address:
982 Altamont Blvd. Altamont NY 12009
Street PO Box Village State Zip
TAX MAP PARCEL NO. 48.06-3-8. The above described property was acquired by
applicant(s) on the following date: July 01, 2016.

B. REQUEST

The applicant(s) request a Special Use Permit for the above described property under the provisions of Section
355-38 K of the Zoning Law of the Village of Altamont for the following purposes: To refinish part
of the basement to create an apartment for elderly mother-in-law
of applicant.
as shown on the attached plan drawn to scale.

C. REASONS FOR REQUEST

The applicant(s) allege(s) that the approval of said Special Use Permit would be harmony with the intent and
purpose of said Zoning Ordinance (local law) and that the proposed use conforms to the standards prescribed
therefore in said ordinance (local law) and would not be detrimental to property or persons in the neighborhood
for the following reasons: It will not increase the footprint of the existing building or
create external features. It will not change purpose of single-family home. It will
not change character of house or neighborhood.

D. SPECIAL FEATURES

In addition to meeting the standards prescribed by the Zoning Law of the Village of Altamont, the applicant(s)
will provide

in order that the public convenience and welfare will be further served.

THIS PORTION TO BE FILL OUT IN PRESENCE OF NOTARY

TO ME PERSONALLY APPEARED

Rebecca A. Wolff
on the 3rd day of July, 2023

Attachment: SUP Conditions Form

(2/21)

Eric S Miller
Notary Public, State of New York
Qualified in Schoharie County
No. 01MI6299131
Commission Expires March 17, 2026

Rebecca Wolff
NOTARIZED SIGNATURE
982 Altamont Blvd.
Altamont, NY 12009
518-572-7851
Applicant Mailing Address & Phone #

SPECIAL USE PERMIT (SUP) CONDITIONS

The Village of Altamont Planning Board will not consider any application for a Special Use Permit (SUP) complete until the following application is completed in full and submitted to the Building Department. The Planning Board will evaluate the applicant's responses and determine whether the applicant has adequately met the conditions for a SUP. The applicant is encouraged to attach additional sheets if necessary to fully answer the questions. The following conditions for a SUP are from Article V, Section 355-35 (E) of the Village of Altamont Zoning Law.

- 1) The physical characteristics, topography and other features of the lot and the scale and physical design and other features of any new or existing buildings to be occupied by the use are suitable and adaptable for the proposed use without any modifications which would change the established character of the street or neighborhood setting.

There will be no external modifications except addition of heat pump. The neighborhood's character will not be impacted. The footprint of structure will not be affected.

- 2) The nature and intensity of operations of the use will not be more objectionable to surrounding properties than those of a permitted use.

The only occupant will be an elderly woman and, therefore, intensity of operations will not be increased.

- 3) The use is not in such proximity to a religious facility, school, community center, recreation place, or other prominent place of community activity and public assembly so as to regularly conflict with such other activity and thereby constitute a danger to health, safety or general welfare.

This will not impact any of the above mentioned areas and will not constitute any danger to the community.

- 4) The use will not unreasonably increase or introduce traffic congestion or safety hazards or impose traffic volumes on streets and street patterns which are deficient in width, design, sight distance, intersection configuration, or other typical standards necessary to accommodate such traffic changes.

The revision will not increase traffic on the street or impose any hazards.

- 5) The use makes adequate provision for off-street parking in accordance with these regulations.

The driveway at the house can easily accommodate one additional vehicle.

- 6) The use and the proposed design of building and other structure and site facilities for the use are appropriate in the proposed location and have incorporated reasonable efforts to harmonize with surrounding uses and mitigate any adverse impacts on surrounding uses, including but not limited to traffic congestion and hazards, untimely scheduling of activities, removal of trees and other established natural features, and excessive stormwater runoff, noise, nuisance, odors, glare or vibration.

The only changes will be to the interior of the structure so, therefore, no impact to the surrounding environment will be made.

- 7) The cumulative impacts of the use in the proposed location will not unreasonably interfere with or diminish the continued use, preservation, stability, value, enjoyment, prosperity or growth of the neighborhood or community.

There will be no interference with any aspect of the neighborhood listed above.

- 8) The effect of the proposed use on the other properties in the neighborhood and the enjoyment by the inhabitants of their properties, and whether it will materially affect the value of such properties and the use and enjoyment of such properties by the occupants and any other effect of such use on the health, welfare and safety of the occupants of such properties.

No impact will be felt by neighbors in any of the above listed concerns.

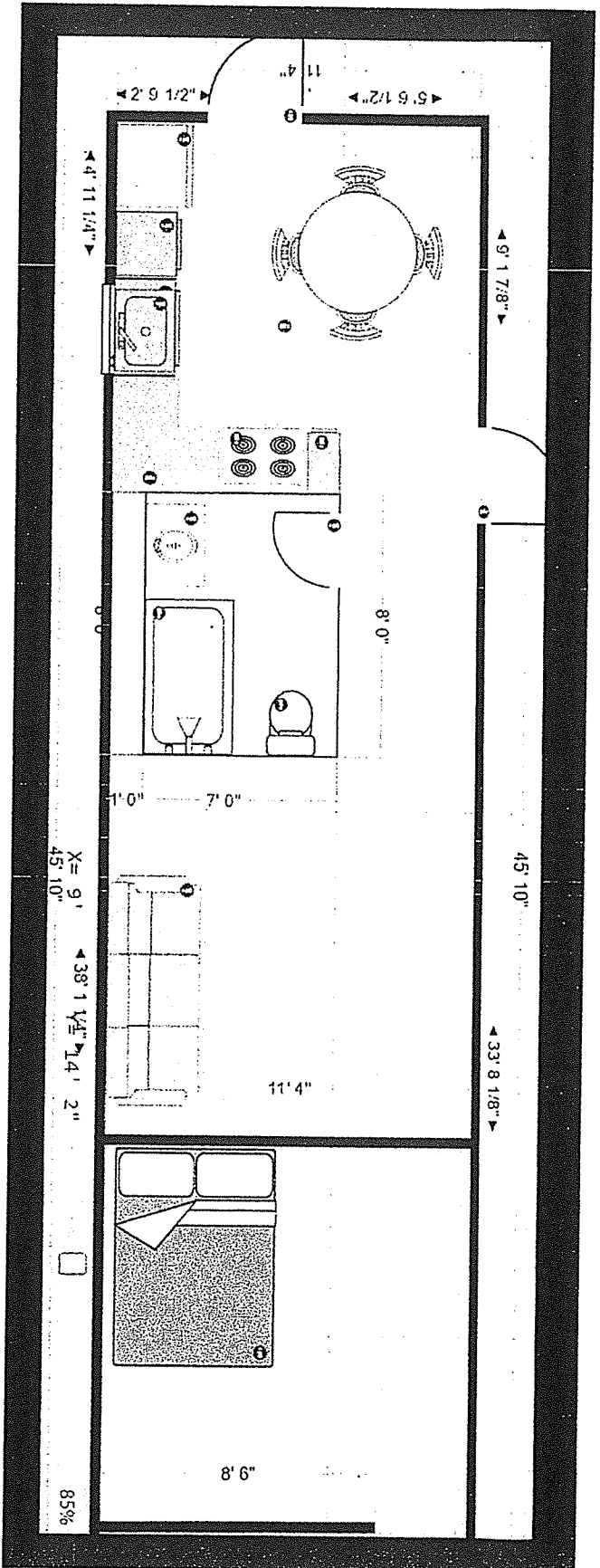
- 9) The use will not conflict in any way with the Comprehensive Plan.

There is no conflict with the Comprehensive Plan of the Village of Attendant.



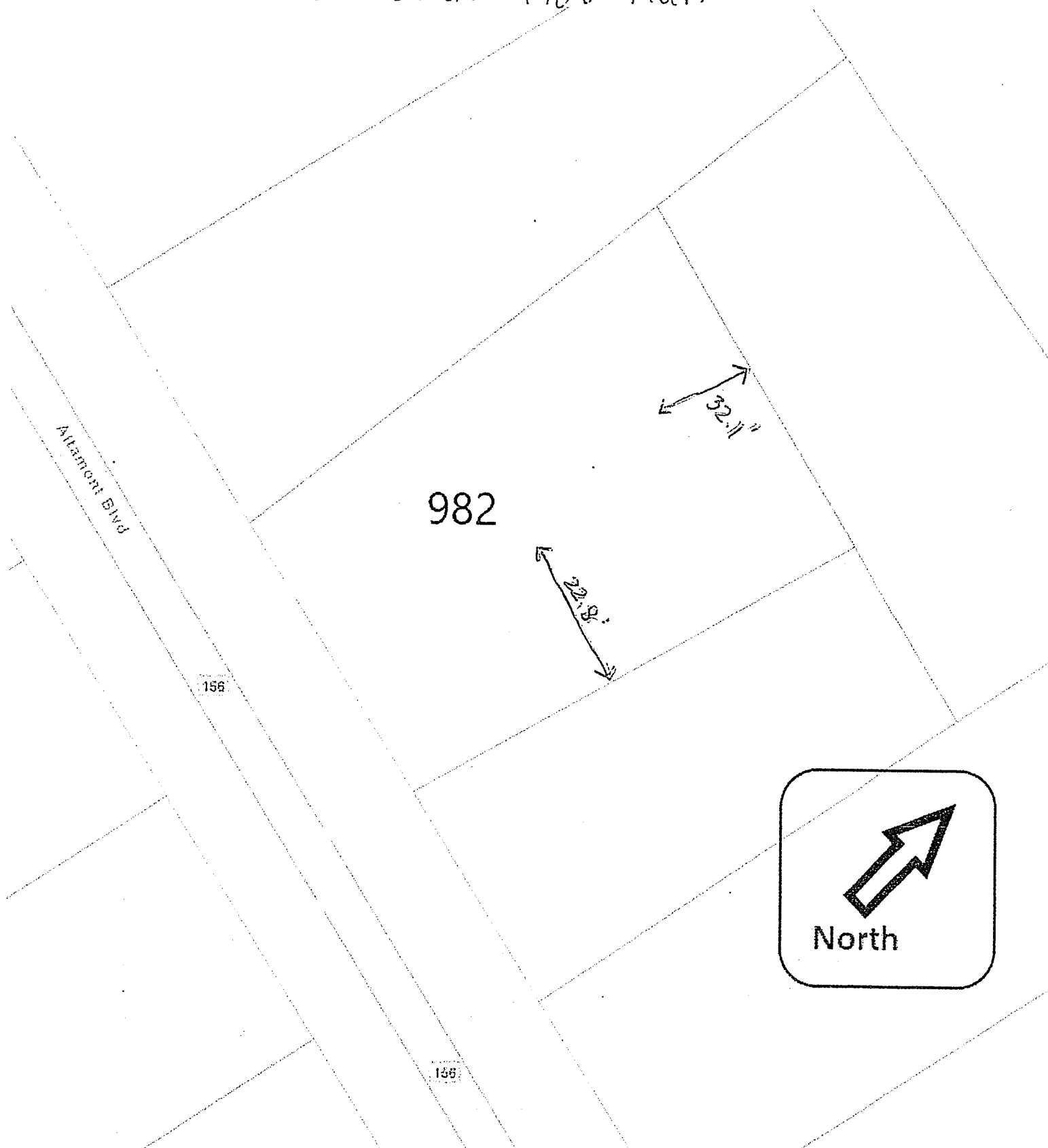
SUP APPLICATION for 982 Altamont Blvd., Altamont, NY 12009

I am applying for a Special Use Permit to refinish part of our basement in order to create a living space for my elderly mother-in-law. We have lived at this home since 2016, and when we moved to Altamont, my in-laws moved to the area as well into an apartment. My father-in-law passed away two years ago, and my mother-in-law has been living alone. She is over 80 and does not want to live alone anymore, and we feel that the best way to keep her safe and happy is to be with us. Therefore, we would like to take the unfinished part of our basement and put in a bedroom, living room, bathroom and kitchenette (see drawing 1). The only exterior additions will be a heat pump, so the footprint of the structure will not be affected. The only person that will live in the space is my mother-in-law, so it will not change the purpose of a single-family home. We love living in Altamont, and hope that we will be able to care for my mother-in-law in our home.



Drawing 1: Proposed basement apartment

982 Altamont Blvd. Plot Plan



Total Size of Parcel = .21 acres

Ginger Hannah

From: cduffy3938@aol.com
Sent: Friday, August 18, 2023 10:52 AM
To: villageadmin@altamontvillage.org
Subject: Public Comment: bedroom in-law apartment to be constructed in the basement of the single family home. 982 Altamont Boulevard in the Village of Altamont.

Dear Village of Altamont Zoning Board of Appeals,

This is a public comment for the bedroom in-law apartment to be constructed in the basement of the single family home. The property, zoned R-10, is identified as Tax Map #48.06-3-8 and is located at 982 Altamont Boulevard in the Village of Altamont.

Please do not approve any request for a bedroom in a basement lacking code compliant bedroom egress windows.

Please be sure this request will have code compliant bedroom egress windows.

Albany County does not require licensing of the trades which is troublesome because other counties in New York have laws requiring trades persons be licensed. The only protection we have at this moment, in my opinion, is you at the time of this permit review.

Please protect the people including but not limited to the possibility of children sleeping in this future bedroom.

Very truly yours,
Christine Duffy
15 Fletcher Rd
Albany, NY 12203
a Town of Guilderland resident encompassing Altamont

NOTICE OF PUBLIC HEARING

Village of Altamont

PLEASE TAKE NOTICE that the Village of Altamont Zoning Board of Appeals will hold a public hearing on August 22, 2023 at 7:00 p.m. at the Altamont Village Community Room, 115 Main Street, Altamont, New York, to hear all interested persons on the proposed application of Robert Spring for an area variance pursuant to Article IV of the Village of Altamont Zoning Law, Subsection 355-24c. to allow an approximate 35 feet of 6-foot-high fencing in the front yard. The property, zoned R-20, is identified as Tax Map #37.09-1-2.2 and is located at 157 Bozenkill Road in the Village of Altamont.

All persons desiring to speak either on behalf of, or in opposition to, said area variance application shall be heard by either attending the public hearing or by submitting written comments in advance of the public hearing to the ZBA Secretary. Copies of the application materials are available for review at the offices of the Village Clerk located at 115 Main Street, Altamont, New York, 12009 during normal business hours and will be available on the Village website by Friday, August 18, 2023 at www.altamontvillage.org.

Dated: August 8th, 2023

Gary Goss
Building Inspector and Code Enforcer
Village of Altamont

Deborah Hext
ZBA Board Chairman
Village of Altamont

Abutting
AFD
DPW

Ginger Hannah

From: cduffy3938@aol.com
Sent: Friday, August 18, 2023 10:40 AM
To: villageadmin@altamontvillage.org
Subject: Public Comment: 157 Bozenkill Road in the Village of Altamont - 35 feet of 6-foot-high fencing in the front yard

Dear Village of Altamont Zoning Board,

I am a Town of Guilderland resident with an interest in this application to be certain that I am not excluded as a person with a disability from use and participation in Altamont a village in the Town of Guilderland. I ask that this email be included to the file and distributed to the Altamont ZBA on the application of Robert Spring for an area variance pursuant to Article IV of the Village of Altamont Zoning Law, Subsection 355-24c. to allow an approximate 35 feet of 6-foot-high fencing in the front yard. The property, zoned R-20, is identified as Tax Map #37.09-1-2.2 and is located at 157 Bozenkill Road in the Village of Altamont.

I request that the ZBA not approve fencing in the front yard to protect and not allow encroachments or taking of the public right of way in protection of pedestrians with disabilities. Also, I would request the ZBA not approve a permit that creates sightline obstructions at or near the public accommodations which includes but is not limited to public sidewalks and sans sidewalk, the public right of way (ROW).

On or about 8/7/2023, a Final Rule was issued by the Federal US Access Board to protect pedestrians with disabilities <https://www.federalregister.gov/documents/2023/08/08/2023-16149/accessibility-guidelines-for-pedestrian-facilities-in-the-public-right-of-way>

Additionally, there are NYSDOT regulations, New York State Vehicle and Traffic laws and even public service announcements addressing pedestrian safety.

The protection of the public accommodations requires oversight and protection by the Town for today and future residents. Please do not make decisions which block disabled from community participation. A fence in the front yard needs not encroach on the ROW, allow sightline protections and will not obstruct nor push disabled persons into oncoming traffic.

Very truly yours,
Christine Duffy
15 Fletcher Rd
Albany, NY 12203
in the Town of Guilderland encompassing Altamont

Village of Altamont

P.O. Box 643 Altamont, NY 12009

Telephone (518) 861-8554 ext 17 Fax (518) 861-5379

Checklist for Variance

Return to:

Village of Altamont
115 Main Street, PO Box 643
Altamont, NY 12009
(518) 861-8554 Ext 17

Fees:

To Be Determined
(Payable at time of Submittal to Village)

APPLICANT INFORMATION:

Name: ROBERT Spring
Address: 157 BOZENKILL ROAD
Altamont, NY 12009
Daytime Phone #: 518-339-2015
E-mail: r.spring@nycapcc.com
Date: June 2, 2023

PROPERTY INFORMATION:

Owner: Rob & Meri-Beth Spring
Location: 157 BOZENKILL ROAD
Tax Map #: 37.09-1-2.2
Zoning: R 20
Acreage: 2.9 Acres

Request for: Use Variance Area Variance

MUST BE SUBMITTED:

- 1) 15 copies of Application *see #1*
- 2) 15 copies of conditional purchase contract or rental agreement if applicable *N/A*
- 3) 15 copies of project narrative containing the following: reasons which necessitate the need for a variance including a brief detailed description of the project *#2*
- 4) 15 copies Architectural drawings of proposed project *N/A*
- 5) 15 copies of survey or plot plan (including a North Arrow) showing proposed project with *#3 & #5*
 - side setbacks
 - front and rear setbacks
 - all existing buildings
 - location of proposed construction
 - total size of parcel
 - all topographic elevations necessary to show proposed variance
- 6) 15 copies completed SEQRA *N/A*
- 7) 15 copies of the Area Variance Conditions Form *#4*

OTHER AGENCY APPROVALS OR RECOMMENDATIONS AS REQUIRED

- 1) NYS Department of Transportation 765-2841
- 2) Albany County Health Department 447-4631
- 3) Albany County Planning Board 447-5660

Village of Altamont

P.O. Box 643 Altamont, NY 12009
Telephone (518) 861-8554 ext 17, Fax (518) 861-5379

APPLICATION AND APPEAL TO THE ZONING BOARD OF APPEALS FOR A VARIANCE OR AN INTERPRETATION OF THE ZONING ORDINANCE OR ZONING MAP

DATE: June 6, 2023

FEE: \$ 300.00 Commercial
\$ 100.00 Two Family
\$ 50.00 One Family

To the Zoning Board of Appeals of the Village of Altamont

I, ROBERT Spring of 157 Bozenkill Rd, Altamont, NY hereby appeal from the decision of the Zoning Administration Officer on my application for a zoning permit and hereby apply to the Zoning Board of Appeals for (check one below):

- An interpretation of the Zoning Ordinance or Zoning Map
- A Variance to the Zoning Ordinance or Zoning Map

1. LOCATION OF PROPERTY

Address: 157 Bozenkill Road Zoning: R 20
TAX MAP NUMBER: 37.09-1-2.2

2. INTERPRETATION OF THE ZONING ORDINANCE IS REQUESTED BECAUSE:

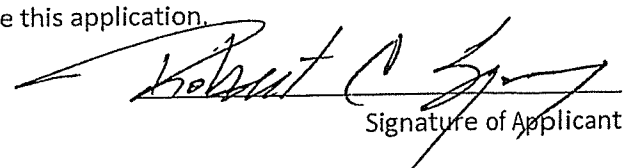
Approx. 113' of wood or vinyl fencing, 6' in height, running along southwest property line between 157 and 163 Bozenkill Road.

3. VARIANCE TO THE ZONING ORDINANCE IS REQUESTED FOR:

A 6' height variance for fencing in the front sideyard.

(a) Applicant shall also complete and submit form outlining conditions from NYS Village law pertaining to area variances.

The applicant hereby certifies that he is the owner of record of the above property or has been duly authorized in writing by the owner of record to make this application.


Signature of Applicant

#2

Project Narrative

Rob & Meri-Beth Spring

157 Bozenkill Road

Altamont, NY 12009

Due to weather-related and naturally occurring changes in the drainage of water on the property, wet conditions are killing-off a hedgerow of arborvitaes. This has resulted in an undesirable change between our boundary with our neighbor, Mr. Paul Miller at 163 Bozenkill Road.

The project will include the removal of many arborvitaes to make room for the installation of a 6' vinyl or wood fence. This project will once again enhance our boundary line with our neighbor, while withstanding the natural changes that are creating the wet conditions.

Respectfully Submitted,

Rob & Meri-Beth Spring

I HEREBY CERTIFY THIS SURVEY TO ROBERT C SPRING, MERI-BETH STAPLES - SPRING, ALBANY SAVINGS BANK, FSB ITS SUCCESSORS AND ASSIGNS AND LAWYERS TITLE INSURANCE CORPORATION.

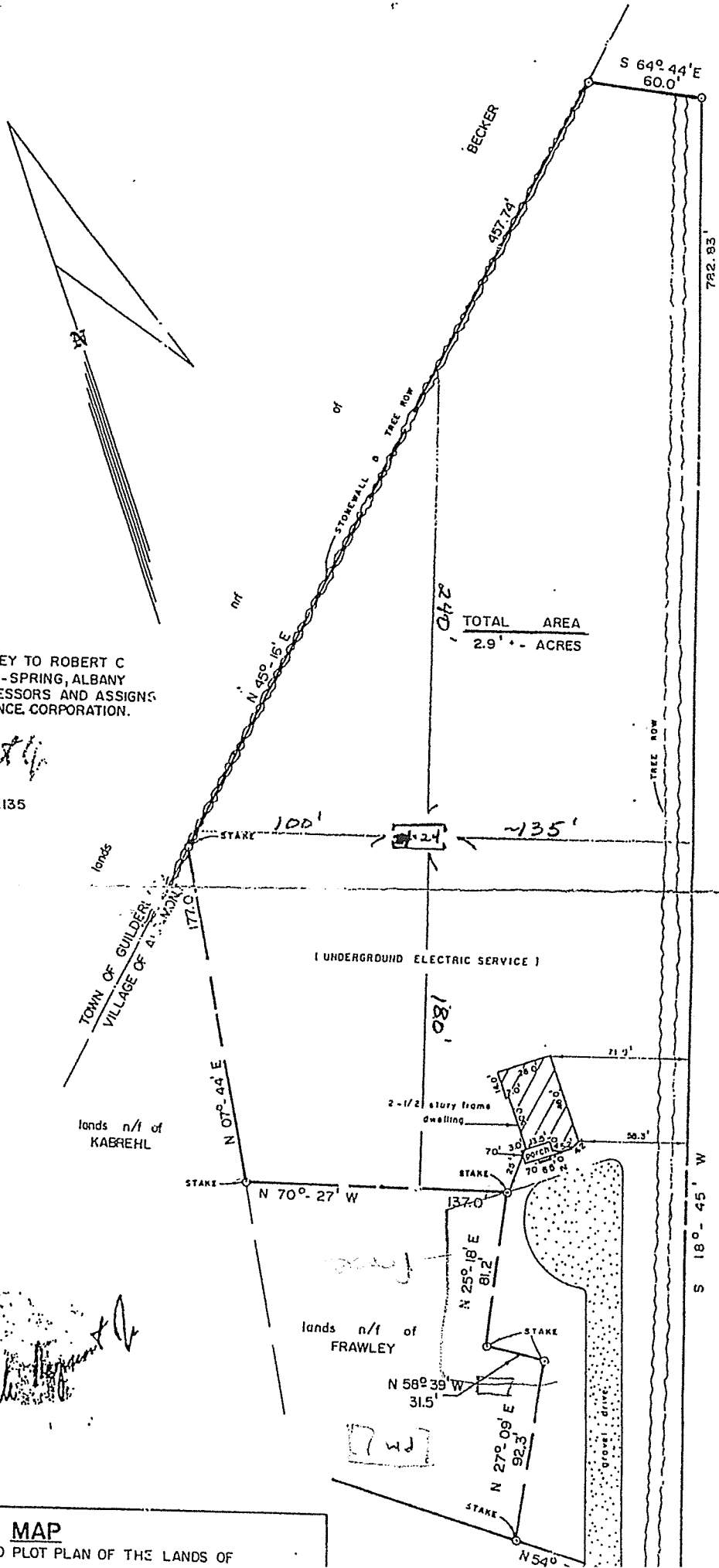
Frankie Hignett Jr.

N.Y.S.P.E. & L.S. 32135

DATE 11-6-93
VILLAGE OF GUILDER
VILLAGE OF 411
TOWN OF GUILDER
VILLAGE OF 411
DATE 11-6-93
VILLAGE OF GUILDER
VILLAGE OF 411
TOWN OF GUILDER
VILLAGE OF 411

Frankie Hignett Jr.

MAP SHOWING SURVEY AND PLOT PLAN OF THE LANDS OF



TOTAL AREA 2.9 +/- ACRES

BANDOLIN

of

n/f

lands

S 18° - 45' W

S 64° 44' E 60.0'

792.93'

BECKER

457.74'

STONEWALL & TREE ROW

N 45° 16' E

100'

135'

(UNDERGROUND ELECTRIC SERVICE)

180'

2-1/2 story frame dwelling

porch

N 70° - 27' W

N 25° 18' E 81.2'

N 58° 39' W 31.5'

N 27° 09' E 92.3'

N 54°

lands n/f of FRAWLEY

lands n/f of KABREHL

lands

Gravel drive

142'

n/f

242'

STAKE

STAKE

STAKE

STAKE

TREE ROW

AREA VARIANCE CONDITIONS

The Village of Altamont Zoning Board of Appeals will not consider any application for an area variance complete until the following application is completed in full and submitted to the Zoning Department. The Zoning Board of Appeals will evaluate the applicant's responses and determine whether the applicant has adequately met the conditions for an area variance. The applicant is encouraged to attach additional sheets if necessary to fully answer the questions. The following conditions for an area variance are from Article VII, Section 61 D (3) of the Village of Altamont Zoning Law.

- 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance:

Due to dying arborvitae, the requested variance for a fence will enhance the character of the properties involved.

- 2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance:

The re-planting of arborvitae was considered for maintaining a "green wall" but due to weather related and naturally occurring drainage issues a new hedgerow of arborvitae would die-off due to water

- 3) Whether the requested area variance is substantial:

The area variance is not considered substantial and is in-keeping with fencing around the pool area

- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district and:

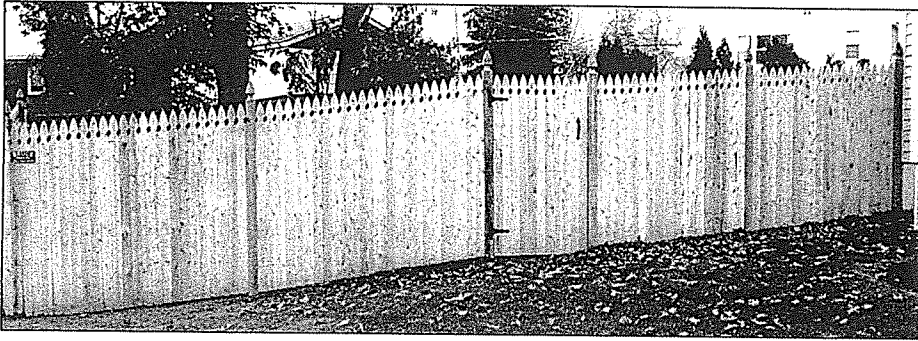
There will be no adverse effect or impact on the physical or environmental conditions other than replacing dying arborvitae with a fence.

- 5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but not necessarily preclude the granting of the area variance:

The conditions impacting the current hedgerow of arborvitae is naturally occurring and resulting in poor drainage conditions, unsuitable for a hedgerow.



PRIVACY FENCING



Washington w/Classic Post

CLASSIC SERIES 8 WIDE PANELS

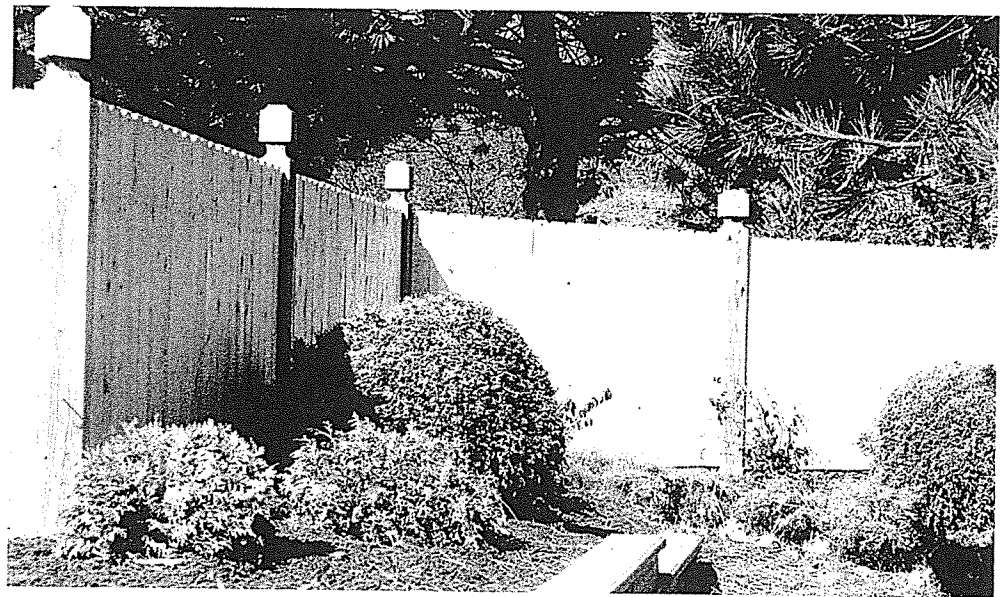
Height: 4', 5', 6', or 8' (12 yr. warranty)
Backers: 2" x 3" cedar, moulded doveled
Const: 1" x 4" cedar boards dbl. nailed
w/alum. screw nails
Post: 4" x 4" w/decorative top
(25 yr. warranty)

Classic Series Option:

Panels can be scalloped @ additional charge

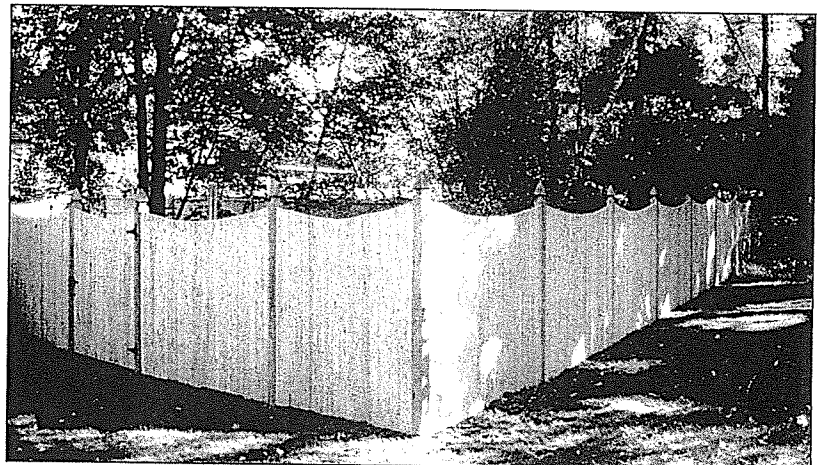


Adams w/Boston Post

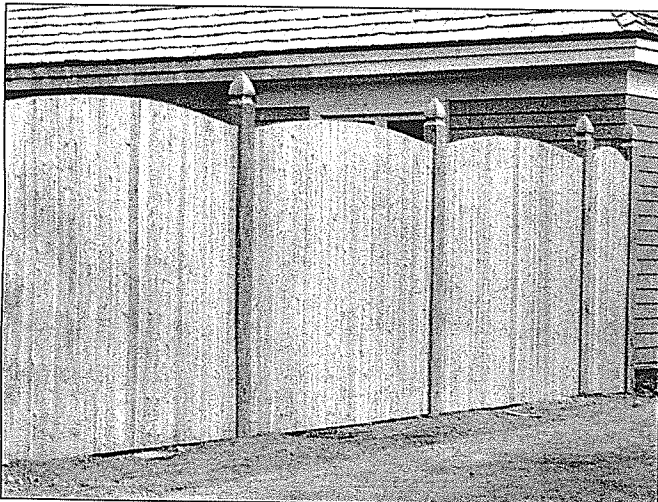


Radcliffe w/Boston Post

*Other
Classic
Styles
Available*



Independence w/Classic Post



Lafayette w/Classic Post

THE ESTATE SERIES

Custom designed for the truly discriminating homeowner, each style is as individual as your home. Ask one of our sales representatives for information on this exciting series of fence.



ALBANY COUNTY PLANNING BOARD
NOTIFICATION

RECOMMENDATION DATE: August 17th, 2023

Case #: 02-230804298
Project Name: Fence Variance
Project Location: 157 Bozenkill Road
Tax Map Number: 37.09-1-2.2
Referring Agency: Village of Altamont Zoning Board of Appeals
Considerations: Area variance for the installation of six foot tall fencing the front yard.

ACPB Recommendation: Defer to local consideration

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Advisory:

Gopika Muddappa, Senior Planner
Albany County Planning Board

NOTE:

- This recommendation is rendered in compliance with applicable requirements of Section 239 of New York State General Municipal Law. Final determination on this matter rests with the appropriate municipal body.
- A recommendation of "APPROVE" or "MODIFY LOCAL APPROVAL" should not be interpreted as a recommendation by this body that the referring agency approve the matter referred. Such recommendation does not indicate that this body has reviewed all local concerns; rather the referral has met certain countywide considerations. Evaluation of local criteria is the responsibility of the referring agency.
- General Municipal Law Section 239 requires that the local agency notify the county within thirty days of its final action. Please use the OFFICIAL NOTICE OF LOCAL ACTION form that is attached for this purpose.
- General Municipal Law Section 239 sets forth the procedural requirements for taking local action contrary to the County Planning Board's recommendation of objection or conditional approval.
- Albany County is required to submit a Municipal Separate Storm Sewer System Permit (MS4) (No. GP-0-10-002) Notice of Intent (NOI) to comply with the NYS DEC permit for the control of wastewater and stormwater discharges in accordance with the Clean Water Act. Construction Activity Permit No. GP-0-1-001 issued by NYSDEC is also required for activity with soil disturbances of one acre or more. The law is required by the Clean Water Act to control point source discharges to ground water as well as surface waters.

449 New Salem Road, Voorheesville, NY 12186
TELEPHONE: (518) 655-7932 FAX: (518) 765-3459

In compliance with Article 12-B, Section 239 of New York State General Municipal Law, this serves as official notification to the Albany County Planning Board of the action taken on the application described above.

LOCAL ACTION ON ACPB RECOMMENDATION:

- AGREED WITH COUNTY PLANNING BOARD RECOMMENDATIONS TO MODIFY OR DISAPPROVE
 OVER-RULED COUNTY PLANNING BOARD RECOMMENDATIONS TO MODIFY OR DISAPPROVE

LOCAL DECISION ON PROJECT:

- PROJECT APPROVED
 PROJECT DISAPPROVED

VOTE RECORDED: all in favor DATE OF LOCAL ACTION: 9/26/23

Set forth the reasons for any action contrary to the ACPB recommendations (use additional sheets if needed):

SIGNED: Ginger Hannah TITLE: GBA Clerk/Secretary