

Village of Altamont
Regular Planning Board Meeting
December 28, 2020

Planning Board Members:

Deborah Hext, Chairperson	Lance Moore, Building Inspector/Code Enforcer
Stephen Caruso, Board Member	Dean Whalen, Board Liaison
Dan Hitt, Board Member	Ginger Hannah, Secretary
John Hukey, Board Member	Allyson Phillips, Village Attorney
Barbara Muhlfelder, Board Member	Applicant: Troy Miller
Simon Litten, Alternate Board Member	Guests: 4

Planning Board Meeting was held online using Zoom video communication due to Covid-19. Chairperson Hext opened the meeting at 7:02 p.m. and welcomed everyone. She stated that due to the Covid-19 virus, this meeting is being held remotely and all audio and video portions of this meeting are being recorded. She said my name is Deb Hext, the Planning Board Chair. She asked the Board Members to introduce themselves, which they did as follows: Dan Hitt, John Hukey, Steve Caruso, and Simon Litten. Barbara Muhlfelder will be joining us tonight at some point. We also have representing us tonight: Allyson Phillips, Village Counsel; Lance Moore, Building Inspector; Ginger Hannah, Planning Board Secretary; and Dean Whalen, Village Board Liaison.

Chairperson Hext said the first agenda item is a concept hearing for the proposed subdivision located at 130 Main Street by Troy Miller. Mr. Miller said he recently purchased 130 Main Street, which has an existing two family. He is looking to subdivide the lot and build a single family and it seems to line up very well with meeting the minimum frontage. It does open up in the back. His intention is to continue the row style housing that is on Main Street.

Board Member Muhlfelder arrived at the meeting at 7:12 p.m.

A discussion was held covering the following topics:

- 1) Is the lot a keyhole lot? Mr. Miller said it's not a keyhole lot. Village Attorney Phillips said when I look at our definition of keyhole lot, and when you harmonize it with other sections of our zoning law that deal with the regulation of keyhole lots, the concept that I'll call it the strip of land that provides access to the public road - if that is buildable in itself, I don't think that we would consider it to be a keyhole lot under our zoning law, but that doesn't mean that that lot doesn't have to be developed in accordance with the applicable area and code requirements for the R10 zoning district. One of those requirements is a maximum front setback. In the table of area and bulk regulations applicable district by district, it says if you're constructing on a vacant lot, you should have a minimum front yard depth equal to the average front yard depth of existing dwellings located within 300 feet of each side lot line of that lot. So if we are in agreement that the strip is buildable, then this is not a keyhole lot, but you are subject to the requirement that the maximum front yard setback basically be in accord with existing structures on either side. So to accord with those regulations, you're going to be required to build in that section adjacent to the other houses. I don't think you can elect to set the

house back behind the existing structures on either side without some kind of variance from the zoning law, from that provision in the existing area tables.

- 2) Placement of the structure on the property Mr. Miller said he's not asking for a keyhole lot and he'll build in accordance to wherever he's allowed to build when he applies for the building permit. He said my intentions are to keep consistent with what's happening currently on the road. Mr. Miller clarified for Board Member Muhlfelder that he has a two-family on the left and he'd like to build a single family to the right. It's not his intention to do anything in the back. Board Member Hukey said as long as he is going to build in the front, not a problem. If he's going to build in the back, then I have more questions.
- 3) Are there wetlands on the property? Mr. Miller said the property does not show any vegetation of a wetland. Chairperson Hext said that these questions would be addressed in the SEQRA. Mr. Miller said he'd get someone of qualified ability to get together that information.
- 4) Was there another concept plan that may have shown a road reservation or an exception on this parcel?

Mr. Miller said he did bring it up to Kerry Dineen to get to the Board. It was put in there in 1914 - potentially there for where the Schoharie Plank Road ultimately went in, but at this point makes no sense because he owns the land behind it, so that would be a reservation from himself. He said he talked to Steve Walrath (the Surveyor) again today about it and the bottom line is it's just something that happened a long time ago that we'd like to remove; he just put it in because it's from the deed, but it literally stops in the middle of the property.

Village Counsel Phillips said if it's in the title, we have to address it in some manner now if we're going to be creating a subdivision plat, because you're supposed to show all easements of record that affect the parcels. She said my recommendation to the Board is to ask you the applicant to provide us with some of this information, just so we can evaluate if or how it has to be addressed in the subdivision plat. If it's a reservation of rights to the back parcel owner and it was for the benefit of that parcel and you now own that back parcel, it may be a simple action to eliminate that reservation or quit claim - whatever rights you have to it - to yourself. But if it was a reservation or exception that went to the Village or to benefit another parcel, we just have to figure that out so that we address it properly on the subdivision plat.

Mr. Miller said it's obviously a very rare situation. Steve did say that it was in some other deeds and subsequently it's not there anymore. So whatever process they went through or didn't go through, it's been removed from some other deeds that are now no longer, but we acknowledge that it exists and we're willing to handle it however it should be handled.

Village Counsel Phillips said when a piece of property is conveyed and a parcel is described, and a specific easement language is dropped out or more general language is added subject to any easements of record, it doesn't mean that reservation or exception has gone away just because it's not recited in later deeds. It stays part of the title until a

formal action is taken to extinguish whatever that property interest is, if it's a reservation or an exception.

Mr. Miller said he would ask his attorney George Slingerland to get in touch with Village Attorney Phillips.

Village Attorney Phillips said with the additional information that I'm assuming George is going to be able to provide for us, we'll be able to better understand what exactly this reservation or exception was for, how it affects the title, what's the benefited parcel. That would tell us whether or not this is something that Mr. Miller can straighten out on his own. If it's something that benefits one of his other parcels, if it's something that was created for the benefit of the Village, or there was an exception specifically made to the Village that may require some further Village action to extinguish or resolve, then we'll talk about that. If that's the case, it's something that the Village Board would have to consider. But the first step is just for me to see the actual title documents, to talk with George about it and get a handle on what exactly is the reservation or exception in the title, and how does it affect this concept plan for the subdivision.

Chairperson Hext asked Attorney Phillips what about setting the public hearing. Her response was that she needed to review the documents from Mr. Miller's attorney and receive a formal application with an EAF to do that. Building Inspector Moore said if it concerns the Albany County Planning Board, it has to be to them by January 11. Mr. Miller said he would move at the proper pace.

Chairperson Hext said she wanted to make sure everybody's comfortable going forward and that she knows Troy and his work – she is sure he'll dot his I's and cross his T's. So we've got to trust him. She then told Mr. Miller thank you, you know the things you have to get to us for the Public Hearing.

Mr. Miller said yes, I'll get just a few things and then we'll go to the next step, probably tomorrow. Thank you.

Chairperson Hext said the next agenda item is to review the minutes from November 9, 2020. Did everyone have a chance to review those? Everyone said yes. Then Board Member Mulhfelder asked if we had anything more from Don Cropsey or Jeff Thomas regarding The Plaza expansion? She said there were a lot of issues she felt that we needed answers for.

Building Inspector Moore said he spoke with Mr. Thomas last week - he had just come from a meeting with Don Cropsey and said we'll have all the information that's necessary for this particular project.

Board Member Litton said I have one comment. I believe on the ninth I asked Nadia (Curry Patta Restaurant) about plastic waste coming out of the takeout operation and I don't see that reflected in the minutes. But what I recall her saying at the time is that she was going to serve most of her takeout stuff in Chinese paper type boxes. Do you recall that? Response was yes. Board Member Litton said I went there on Monday after she opened to the public for dinner and everything she

served was in plastic, including styrofoam, which is, I believe, banned in Albany County. Response was we do recall that conversation and we can have Lance actually follow up with her regarding that.

Board Secretary Hannah said I remember hearing that and it may have been in the minutes of the meeting previous to that, because I'm pretty sure that I put it in the minutes - from October 28, 2020. She said I will look into that and either confirm that it was in the minutes before that, or if it was for the meeting minutes from November 9, then we can add that.

Building Inspector Moore said he would call Nadia tomorrow.

Chairperson Hext said could I have a motion to approve the minutes of November 9, 2020 with the condition that if that was missing, it will be added? Board Member Muhlfelder made the motion, seconded by Board Member Caruso. **All in favor.**

Chairperson Hext asked if there were any other questions or any other old business or new business that anyone wanted to bring up. All ok. Anybody have anything else? Allyson, are you good?

Village Attorney Phillips said if Troy's attorney reaches out to me with that information, I'll forward it on to all the members of the Board with a little summary based on my review.

Chairperson Hext will send George Slingerland an email to make sure he has Village Attorney Phillips' information.

It looks like they've already looked into it, so I'm assuming they're going to be able to provide us with the relevant deeds, with an explanation of how they interpret it. We'll just review that and make our own assessment based on their review of the deeds. If it sounds like how he was describing it, it may be that this reservation benefits a parcel that he also owns - the back piece. But if it's something that was actually created for the benefit of the Village, then we'll have to look at it from that perspective.

Chairperson Hext said all right. Dean, do you have anything, you're very quiet tonight.

Board Liaison Whalen said only the thing I would suggest for consideration to John's point is - and a quick explanation about the 30 feet for a keyhole lot - that was to kind of cover all the zones that we have because a lot of zones have a hundred foot minimum front yards, 80 foot minimum front yards - so that was kind of an all-inclusive. What the Board may want to consider as a recommendation next time we get around to changing the ordinance is maybe being more specific, so that per zone there's a limit of the frontage for a keyhole lot. Not saying this is the right number, but for example R10, approximately 30 feet is almost the same width as what's required. So do you make that 20 feet or 15 feet for R10 and then customize it for another couple of zones that may be different than the 30 and then say maybe 30 for anything that has a hundred foot setback. So it is a little bit more defining of the intent of the keyhole, which is really just access, which wasn't the case here. But then it can be easier to look at a parcel when someone is

strictly trying to access in a given zone, because again, to John's point 30 feet's written down - it really isn't applicable to R10. Thirty feet's basically the same size as the lot.

Chairperson Hext said a keyhole lot's not an allowed use in an R10. So if we took it a step further, maybe it would help to add the use of a keyhole lot for an R10, and then we could further define the R10 keyhole restrictions or allowances.

Board Liaison Whalen said right, just considerations for the Board to maybe refine some things like that. There was an important thing to keep in mind going forward as Allyson's point about the average front yard in the district and the region. It's going to be key to define - again Troy probably already figured it out before any submits - to find out where that is roughly in the 30 feet, to really hold this parcel to having a building in that 50 foot area.

Chairperson Hext said yeah, which is what I was trying to get him to agree to. But again, those are conditions we can put on the approval of the subdivision plat, that here's where you can build. Otherwise you're going to have to go for a variance or you have to ask the Village Board to add a use to the schedule of a keyhole lot in an R10.

Board Liaison Whalen said it sounds like he would have to go for a variance if someone wants to build on the back part of that lot because it wouldn't comply with front yard requirements.

Village Attorney Phillips said I think if he came in with an application for a building permit to put a house on that back piece, you would flag it just as you would with any other application for a building permit that didn't meet a side yard setback or something, you would flag it as needing an area variance. I think it's pretty clear because this is not a keyhole lot and that strip adjoining Main Street is developable, he is subject to the area requirements and the R10 and that's including the maximum front yard setback provision.

Chairperson Hext said okay, good suggestions. Thank you, Dean. Okay, if there's nothing else - Allyson, thank you so much for joining. Thank you for writing that up and doing all the research that you did on it - it really, really helped tonight.

Village Attorney Phillips said thank you. And I'll follow up when they get me that additional information.

Chairperson Hext said okay, great. Given that, could I have a motion to adjourn? Board Member Hukey made the motion. Board Member Muhlfelder seconded. **All in favor.** Meeting was adjourned at 7:52. p.m.

Respectfully submitted,



Ginger Hannah
Planning Board Secretary