

Village of Altamont Zoning Board of Appeals
 Regular Meeting
 July 25, 2023

Deb Hext, Chairperson	Gary Goss, Building Inspector/Code Enforcer (absent)
Danny Ramirez, Member	Attorney Clarke for Village
Barbara Muhlfelder, Member	Ginger Hannah, Secretary
Simon Litten, Member	Tresa Matulewicz, Board Liaison
Robert Freeman, Member (absent)	Jeff Moller, DPW Superintendent
James Sullivan, Member (absent)	Paul Miller, Fire Chief
Andrea Witham, Member	

Applicants:

Troy Miller / CM Fox
 Rolando Andres, Project Manager for CM Fox Subdivision
 Chris and Rebecca Wolff
 Michael Holt and Mrs. Doak
 Mr. Spring

Guests: 11

Chair Hext: Good evening everyone. Welcome to the Village of Altamont Zoning Board of Appeals meeting. Tonight is Tuesday, July 25th, 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 am the Zoning Board Chair. Would each member of the Zoning Board please introduce themselves starting with Danny? Board Members introduced themselves as follows: Danny Ramirez, Simon Litten, Village Attorney Hyde Clarke, Andrea Witham, and Barbara Muhlfelder.

Thank you. Also representing the Village tonight we have Ginger Hannah, our ZBA secretary, Tresa Matulewicz, our Village Board Liaison, and Jeff Moller, our DPW Superintendent. With that, we're going right to the agenda and there is one change on the agenda tonight. We are going to review the old business first, the old business being the Troy Miller of CM Fox variance request. The public hearing is still open on that. So if anyone would like to speak regarding that variance request, please feel free to come up. State your name and your address. Anyone? I recognize everyone's been here before, so...

Anyone on the Board have anything to state regarding this? No. Okay, then-

Board Member Ramirez: Deb, I'm sorry, I just have concerns with the driveway access off of Schoharie Plank Road, the variances, the four entrances, breaking that up. They're very narrow. It's a large variance nonetheless.

Chair Hext: You're talking about the entranceway?

Board Member Ramirez: Yeah. To one side. I forget the lots, but off Schoharie Plank.

Chair Hext: Okay. All right, thank you.

Board Member Muhlfelder: I was going to say I have concerns about that too and I was thinking today about snowplows going in and they're pretty wide, and the damage that could be done to, I think it's the Fox's on the left and then the Johnson's on the right, their yard. Again, I just don't see the need for it and I think that again, and it keeps coming up about the condition of Schoharie Plank Road is not in the best of

shape. It's an old road and with increase of four more cars and maybe even more, they may have teenagers that have cars, I just don't think it's necessary. I think they could go in off of Western Avenue and I think that would be fine without disrupting someone. The neighbors and the traffic, and again, so many people and myself included, walk that route and I have a big dog that weighs more than I... No, he's big and he's very strong as I found out when I fell in the vet's parking lot yesterday, and he pulls me. And sometimes just I'm on the side, if a car comes, I'm on the side of the road, but it's very difficult. I just don't see the need for it.

Chair Hext: You're saying you don't see the need to...

Board Member Muhlfelder: To have a road going into the four houses that he is expecting to build.

Chair Hext: Do you know if they're contracting with an individual plow company? In other words, would the plow be as big as a DPW plow?

[Rolando Andres, inaudible]

Chair Hext: I know you. Everybody else probably doesn't.

Rolando Andres, Project Manager, CM Fox:

Hello Board, residents of Altamont. To answer the question, no. There is no talk of having a commercial plow take care of the driveways during any sort of snowfall event. It's expected that it'll be maintained by the occupants of the property there.

Chair Hext: Thank you. Okay. Just wanted to get that out there that we're not going to be using commercial plows if this goes forward. And hopefully they would take care not to be dumping the snow and ice and everything else into the creek. That could certainly be a condition that we could add that they would figure out some other way to dispose of the snow and ice rather than into the creek.

And also they would probably block the footbridge, so another concern. Anyway, with that, if no one else has anything to add, could I have a motion to close the public hearing? Just as a note, this is the public hearing regarding the variances only. This has nothing to do with the application, the subdivision application in general. That will happen at a different time. We'll have a public hearing for that.

Tom Capuano, Speaker: I'd like to say something.

Chair Hext: Oh sure. Come on up.

Tom Capuano, Speaker: I don't know if this is relevant or not.

Chair Hext: That's okay.

Tom Capuano, Speaker: My name is Tom Capuano. I live in the town of Guilderland, outside of the Village of Altamont city limits. Is it relevant to talk about...? Oh, let me back up. On Schoharie Plank Road West, there's a foot bridge that crosses from Euclid Avenue over to Schoharie Plank. And directly in front of that foot bridge is an empty lot, which I understand is to be an access route into that property.

The variances that were submitted, do they include the variance for the width of the road that goes into that currently empty lot?

Chair Hext: Yes.

Tom Capuano, Speaker: Okay, then it is relevant. I think it's relevant, what I have to say. And that is that there are two homes on either side of where that driveway would be built, or not driveway, but roadway. And it seems to me that both those homes are way too close to each other and would be way too close to the road itself. I've known the people who lived in those homes over the years and I know that they, like anybody would, you enjoy having the peace and quiet of a dead end street and to all of a sudden have cars going... Not all of a sudden, but with this development to have cars going back and forth underneath your bedroom windows, we're talking about the east side of one house and the west side of the other, underneath your bedroom windows, now you have cars going back and forth.

It just doesn't seem fair. And after all, if it's a variance, if it's a variance, that means the request is to bypass the zoning regulations. Why are we so eager to bypass the zoning regulations and grant variances when the neighborhood will be so drastically altered and when the inconvenience of having a roadway like that between the two houses is so obvious? So that's what I have to say.

Chair Hext: Thank you.

Board Member Ramirez: Thank you. But if I might, this Board is not eager to grant any variances. This hearing is just for that, until we come to conclusion. So let's not assume that it's a one-way trip. Okay?

Chair Hext: Okay.

Deb Katz, Speaker: I guess we're getting ready to close the-

Chair Hext: It's okay. All I had to do was threaten to close the public hearing.

Deb Katz, Speaker: I just wanted to comment on again, the...

Chair Hext: State your name.

Deb Katz, Speaker: I'm sorry. Deborah Katz. Deborah Marion Katz. I just wanted to comment again on the safety issue, particularly for kids that live on the street. We now have really the great pleasure of living next door to Ben and Heather Fox and their two little boys and enjoying them and watching them grow up. And now we have the pleasure of seeing best friends being made with the Edelson and Fassett family who live across the creek.

The boys are constantly going back and forth across that creek. I mean, lots of kids grew up on that creek safely coming onto Schoharie Plank Road West. And so my concern again is exacerbated even more about the safety of kids on that road because we're seeing them come in and out of the woods instead of going around the driveway and using the driveway. There's a real thrill with being able to use a rope tied to two trees to get across the creek.

And so they are having their friends over and it just concerns me seeing these kids are going to be... They're five and eight and 12, so they're going to be spending their childhood growing up in those two homes and playing in the creek and enjoying the safety of that road right now as it exists today. So I just wanted to emphasize that point once again. Thank you.

Chair Hext: Thank you. Anyone else? Going once, going twice. No? Okay then, could I have a motion to close the public hearing regarding the variances? Board Member Muhlfelder made the motion, seconded by Board Member Ramirez. **Roll Call: All in favor.**

Chair Hext: With that, there are a few things that I would like to go over. We went over the part two of the EAF for the CM Fox subdivision at the last meeting. There were some questions that were outstanding that we had for our engineer and if our Board has the documentation, I would like to at least go over some of those comments from our engineer, since there is some significance to the determination of declaration here. So one thing from Board Member Litten in the soil department, it talks about three different kinds of soils that are on the site. One of them is in the majority of the areas tilt loam and on page 14 of the booklet it says depth to water table 18 to 24 inches. Our engineer, Brad's comment is, "It is not uncommon for the county soil survey to differ than actual test pits. Near Western Avenue one of those lots is near a wetland adjacent to the site and recall a condition that house not have a basement." Not exactly sure what he meant by that. I don't know what house he means. Does anyone have any idea what he might be referring to there? So we have a question about his question.

Attorney Clarke: Well, just in the EAF, the question was what's the water table as part of one of the concerns? So I think Board Member Litten was just raising that based on that particular soil type that it may be 18, 24 inches. And I'm thinking that the engineer's comment is that the water table is quite high and that that's why, I don't know for perhaps a previous project, they weren't permitting a basement because of that water table height. So that's just one consideration in the EAF. It's just unfortunate he didn't give the actual depth.

Chair Hext: My concern there is that he's not referring to a specific home proposed in the subdivision.

Attorney Clarke: Yeah.

(13 min) Chair Hext:

Again, yeah. Can we defer to the surveyor who's present to see if there's 15% slopes or greater? Brad's comment on that is "Less than 10%. Substantially so for most of it." So I guess there is less than 15. The proposed action may involve construction on land where bedrock is exposed generally within five feet of an existing ground surface. "No exposed bedrock rock (above surface)," was his comment.

Attorney Clarke: And also "Test pits did not encounter bedrock at around 8'." So that would be little to none.

Chair Hext: Little to no impact on that. Moving along here. And this was in reference to the disturbance of less than five acres. His comment was, "I recommend rain gardens for water quality and water quantity on the lots. A stabilized swale/small berm adjacent to Marion Court to direct controlled runoff towards the creek."

Attorney Clarke: And that's just in response to the fact that there's going to be an increase in impervious surfaces. So in terms of the environmental assessment, Brad's identifying mitigation measures. So even if the Board were to find that there was a moderate or larger impact, Brad's recommendation is that during site plan and subdivision review that we require the rain gardens as well as stabilized swale. So those will be [inaudible 00:15:02].

Chair Hext: And we'll give you all these updated comments. My concern on that one is if anybody walked that way the last couple days, the creek was at its height with nothing else being deferred to that creek. So there may have to be an alternate plan there or an additional plan there rather than deferring it toward the creek. Because I mean, I walked yesterday and it was at the banks. I walked today and yes it had subsided, but what would've happened if this happened yesterday? Just something that we can consider going forward.

Okay. We can ask Brad that. "With low slope lands well vegetated, there should be little to no erosion. Able to mitigate via design and good execution." Again, this is all something that we will be paying close attention to. Okay. This is regarding pervious surfaces – "Lawns/landscaping are pervious surfaces that will be on the lots. Vegetated rain gardens are also pervious." So obviously, he keeps suggesting rain gardens, rain gardens, rain gardens.

I don't think it's officially on the Army Corp of Engineers wetlands or I don't think there's anything official on that. Gary had done a drawing at one point, printed something out and that wasn't in the area. The acreage was not considered wetlands, and Brad's comment: "New York State DEC has a summary document for any specific site that informs on many environmental issues, including wetlands. That supplements the applicant's data in Part 1 of the EAF with known existing conditions."

Board Member Litten: What comment are you on?

Chair Hext: I am on page 26 of 48.

Board Member Litten: Oh.

Chair Hext: Right on the top.

Board Member Litten: Oh, there. Yes.

Chair Hext: Got it?

Board Member Litten: Yeah,

Chair Hext: You good? Everybody good? Sorry. Okay. So a retention pond wouldn't necessarily be a water body, it would be a stormwater measure. And his comment on that, "Some storm water practices retain water, some like a rain garden are temporary but not a permanent water body. Dewater by infiltration where soil is amenable."

Attorney Clarke: So the answer there is that - the question was - does the proposed action create a new water body? We had a question about the stormwater measures and Brad's just confirming that those measures don't necessarily create a permanent water body and then in order to trade out and release the water.

Chair Hext: The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body. If it adjoins a wetland, I suppose is possible. Okay so, "No excavation in wetland," was his comment on that. So this is again asking about wetlands. The proposed action may involve construction within or adjoining a freshwater or tidal wetland in the bed or banks of any other water body. The proposed action may create turbidity in a water body, either from upland erosion, runoff or disturbing bottom sediments. His reply was, "No to small impact. Not going into the stream."

Board Member Litten: Okay.

Chair Hext: Go ahead, Simon.

Board Member Litten: Well Deb testified at the meeting that she had seen quite a bit of sediment going into the stream during a storm.

Chair Hext: Yep, I agree. So are we saying that this could be a moderate to major impact?

Board Member Litten: I think it could be a local impact of some significance.

Chair Hext: Okay. What I'll do is I'll start to make a little notes on things that we need to drill down, excuse the pun, further on when we get to the actual subdivision application and we do the EAF for that.

Attorney Clarke: So we are doing SEQRA for the entire project.

Chair Hext: Oh, yeah. We are doing SEQRA for the entire project.

Attorney Clarke: But we can make a note as to additional mitigation measures during the subdivision. So I think based on the commentary, there may be an existing condition of a concern. So it's not just a question of is this project necessarily going to add to that. Are there ways for us to build in mitigation measures that improve existing conditions also at the same time? So I think we can deliberate that more during the subdivision part of the process.

I think Brad's comment is just that it's not as to whether or not the condition exists today, it's that as proposed, there will not be a discharge into the stream and we have to make sure that that's the case and that's how it's constructed.

Chair Hext: Okay. Definitely have to revisit that one. All right. So this is again talking about storms and extra water going into the stream and Brad was, "I recall Hurricane Floyd. Large runoff from uplands moved and dispersed thousands of large rocks and blockages forcing water above and outside the normal channel. Not a typical thing."

Board Member Litten: I was bothered by that comment. For one thing, I recall Floyd really hitting quite a bit to the south of us. I don't recall Floyd being that much of an event up here. It destroyed some of my equipment down in Wallkill, but not here. So I'm a little concerned about that. But his ending saying, "Not a typical thing," is... I was a little alarmed by that. I think we're going to be expecting more strange weather in the future. And what was typical in the past is not going to be typical in the future. So I think we need to be very careful about what we do near water.

Chair Hext: And again, we can revisit that in more depth.

Attorney Clarke: Also, just a reminder to the Board, when you work through the part two of the EAF, it is okay to mark items as moderate to large where you feel that that's the impact. And that should then inform you as to, again, what mitigation measures have to be in place to address that, if possible.

Chair Hext: Which we had done a number of, I believe, moderate to large impacts. When we start to review the subdivision application, can we focus on those specifics at that time or should we focus... I mean, I'm not sure we have answers to those specific issues right now.

Attorney Clarke: So the SEQRA has to be completed for the entire project, but in terms of reviewing potential mitigation measures, that would be done with the subdivision process.

Chair Hext: Okay. Okay, good.

Attorney Clarke: If there are questions that the Board's not comfortable with in making an overall determination, understanding that you're bouncing everything we answered, it's a 10-page document full

of questions. Not everything is going to be small to no impact. I think it just has to inform whether or not the Board feels that overall if there's going to be a significant environmental impact or are there certain areas that require further attention or mitigation to be designed.

Because again, we don't have the full stormwater design. That's something that's going to be required. Fully designed plans will come forward once we know if the variances have been approved or not. There's going to be additional design and plans completed. And that'll be for the Board to review and find if that's adequately addressed, what you've identified as being a concern.

Chair Hext: So if we were to go forward, and I know this isn't happening tonight, either a positive or negative declaration, that doesn't say that we cannot require mitigation or conditions set forth later on, right?

Attorney Clarke: Correct.

Chair Hext: All right. Does that make sense, Simon?

Board Member Litten: Yes.

Chair Hext: Okay, thank you. Okay, so "Any ponding is likely temporary. With proper grading it can run off the site toward the creek. Moderate seems appropriate." So everyone knows, anything that says that they're running it off toward the creek, I am kind of putting a little asterisk next to it. "Watervliet and Guilderland's water supply. This project is in the reservoir's watershed and basic stormwater treatment can mitigate with rain gardens or similar practices. I discussed early on my review comments previously." I'm not reading that wrong. That's what it says.

Attorney Clarke: And all these questions are going towards is there an impact to surface water. Is there an impact to adjacent water bodies? And I think we have all marked down that there is a risk and that's why Brad's identified what measures will have to be in place.

Chair Hext: Do we want to go through each and every one of these or I mean, I think we're all getting the gist. I would've liked to have... and maybe we can do that and just to make it easier for the Board to read at some point... his comments tied specifically to the SEQRA EAF. Because we're kind of all over the place here.

Board Member Muhlfelder: There are five more to discuss.

Attorney Clarke: Yeah, I think I can kind of give a summary too. The next, on page 31, the question was about whether or not there'd be commercial application of pesticides within 100 feet of drinking water or irrigation sources. That's the EAF question. Brad's comment was that he has seen local Boards request that pesticides and herbicides not be used and so noted on the plan during the construction season. After homes are sold, it's more difficult to regulate just because you're now down to each homeowner, but that could still be a condition that those not be used, which would address the EAF question.

The page 32 was a question about the floodplain, whether or not it was in the 500-year and 100-year floodplains. Brad responded, "I don't recall those floodplain lines shown on their map unless recently. The road is within or very close to the 100-year floodplain. There should be means to drain and not pond behind the road on the Western Ave side of their road at Schoharie Plank. Culvert or low point in their road to maintain drainage patterns insofar as floodplain is concerned is likely needed."

So again, discussing what mitigation measures would have to be in place. Another question about the 500-year floodplain. Brad stated that, "No. The 500-year floodplain limit is outside or west of the 100-year floodplain limit along the creek."

Chair Hext: That road is in the floodplain though. West Schoharie Plank is in the floodplain.

Attorney Clarke: Yeah. The next question on the EAF was whether or not the project would modify existing drainage patterns. There's a discussion about a dam, if there's a dam located on the site proposed action, is the dam in need of repair or upgrade. Comment: Small impact. There are no dams, but a good drainage/grading plan is necessary for this project.

Page 34. This was a discussion in the EAF about the northern long-eared bat, which was identified on the EAF. Brad just confirmed that from November 1st to March 31st is the only time when they would be able to cut trees and which is outside the nesting care of young between April and October. Therefore again, even though the northern long-eared bat was identified, the requirement or mitigation measure is the cutting restriction.

Page 36. Question on the EAF was about whether or not this was an agricultural field and what type of soil types. Brad had a comment that "The soil is okay for hay, which seems to be the case, but the soil is void of highly productive soil from what the test pits showed."

Because the specific EAF question has to do with a certain soil type, which is a specific grade that the agricultural soil would receive, and Brad said that that's not the case. The next question, the EAF was about impact to scenic or aesthetic resource and Brad's comment was that it was a "Small impact to aesthetic resources."

Page 40. I believe the question had to do whether or not there'd be an increase in traffic or vehicles. I'm sorry. The question he was responding to was whether or not the action would involve heating and/or cooling of more than 1,000 square feet of building area when completed. He felt that 1,000 square feet would be air...

Board Member Andrea Witham: 100,000.

Attorney Clarke: 100,000 square feet. So typo in the minutes... would be 100,000 square feet. Again, I think it's a little or no or small impact based on the number of homes proposed. The next question in the EAF was about light trespass. Brad's comment was a "Condition that no light trespass can occur beyond property boundaries with 0.0 lumens at property line", which could be handled during the subdivision review.

Chair Hext: And that is part of our code.

Attorney Clarke: Page 42. The question in the EAF was the consistency with community plans, adopted land use plans. Brad had a comment that the residential, "It's not that residential is out of character, it is the layout/lack of road frontage onto a public street regarding character," in his opinion, the comment being residential is allowed, but perhaps the variance is... Because there's a variance that's required that's not necessarily consistent with the Village Zoning law.

Chair Hext: I think that's it.

Attorney Clarke: Page 46. The public had made a comment about replacing forests and fields with neighborhoods. Brad's comment was, "The scale of vegetation removal for this project is smaller than most this size. As much has already been deforested for the hay fields decades ago. Hedgerow area in the

middle and new road in from Schoharie Plank, trees, landscaping would be added on the lots, which should be considered."

Chair Hext: Thank you.

Attorney Clarke: That concludes the comments from the town design engineer, which is what we had flagged when we went through part two at the last meeting.

Chair Hext: Does anybody have anything else they would like to add or, I mean, we certainly made some notes. And so at this point, do we want to consider going forward for the next meeting for a declaration?

Attorney Clarke: I think the next step would be for the Board to have any further deliberations about comments in part two and to hopefully give guidance as to what they would like drafted for consideration at the next meeting.

Chair Hext: As far as the declaration.

Attorney Clarke: As far as declaration. Yeah, the next step would be to either have a negative declaration in terms of SEQRA, which states that there would not be a significant environmental impact for the project or a positive declaration that there would be, which would start additional SEQRA proceedings. Those are the two options.

Chair Hext: So going forward, what's everybody's thought? Obviously we're not making a determination of significance tonight, but does everyone feel like they've got enough information at this point to request that our attorneys draft a resolution either as a negative dec or a positive declaration of significance and SEQRA? Do we need any more information at this point?

Board Member Muhlfelder: I don't think so. I think we're ready.

Board Member Ramirez: Yeah, I believe we're at a point where we have the information and the answers that we were questioning last meeting on the EAF so that we can move forward.

Board Member Litten: I concur.

Chair Hext: Andrea? So do we feel we have enough information to make a negative declaration at this point? Meaning that there's not going to be a huge environmental or a significant environmental impact going forward?

Attorney Clarke: And just to clarify, because there's been points, good points raised as to concerns, a neg dec does not mean that there are no impacts. It just means that we, overall - there's not a significant impact and also you can build into the findings of that negative declaration your areas of concern that will need further design in mitigation.

Chair Hext: In mitigation.

Attorney Clarke: It's not a blanket...

Chair Hext: Approval.

Attorney Clarke: Yeah, not a blanket approval. Right.

Chair Hext: And even with the mitigation, we can also set conditions. So our hands aren't tied at this point, and I certainly wouldn't go forward if I thought our hands were tied at this point, but that's me. So as far as a negative declaration, what is everyone's feeling? Do we have enough to request that Hyde or Allison draft a resolution giving a negative declaration of significance under SEQRA?

Board Member Muhlfelder: I don't feel that it's negative. I'd say it's positive. I think there's too many issues involved. I would not say that.

Board Member Ramirez: Now how are you making that determination, Barbara, based on the form that we filled out?

Board Member Muhlfelder: I feel, again, with the water issue, the drainage, I do feel that the creek is going to be affected and I would be uncomfortable giving a negative to it.

Chair Hext: Again, we can ask for mitigation. We don't have to... Let me phrase this correctly. If going forward we feel as though, let's just say we do a neg dec, going forward we start to review the subdivision application, all of these things are going to come up again. If we don't get satisfactory mitigation or set conditions, we don't have to approve it. We're not approving it now. We have to go through SEQRA in order to approve or disapprove a variance. We have to do that. But we're not approving or disapproving a subdivision. Right?

Board Member Muhlfelder: Right.

Chair Hext: Now we're just determined giving it variance determination of significance regarding the subdivision. But if that's your feeling, that's your feeling.

Board Member Muhlfelder: It's my feeling.

Chair Hext: "It's my feeling."

Attorney Clarke: And just some additional information about what a positive declaration would be. That would then require a scoping document that identifies the areas of concern that need to be mitigated and goes further into those specific areas. So a positive declaration does not necessarily mean the project would not move forward. It just creates additional procedural requirements about the mitigation measures. And I just provide that as background of what next steps would be. And it does... The process that the Board could go through would also, could yield those same things as Deb mentioned about. If it's not mitigated to a standard that the Board approves, they don't necessarily have to approve the project. That's just procedurally from what a positive dec would do.

Board Member Muhlfelder: Yeah. Okay.

Chair Hext: And with a positive dec, who else has to be involved at that point?

Attorney Clarke: It's coordinated review so that the ZBA is still the lead agency. The applicant would have to prepare a draft scoping document. This Board would have to approve it. That scoping document narrows the areas of concern. It would not be to go through all of what we've identified in part two and then requires an environmental impact statement, which is a big undertaking.

Board Member Muhlfelder: I think it's very important about the mediation.

Attorney Clarke: Mitigation.

Board Member Muhlfelder: Yeah, I'm very concerned about that. And if you feel that with a negative, we can still, as I said, put some conditions on it. Remediation, I think it's very important.

Chair Hext: I agree 100%, but I don't... We're not here to change your mind. We're a whole...

Board Member Muhlfelder: No, no, no. I'll switch.

Chair Hext: No, no, no, that's not...

Board Member Muhlfelder: Yeah, no. Yeah.

Chair Hext: So, anyone else have thoughts? If not, I guess we'll have a motion to...

Attorney Clarke: We don't necessarily have to have a motion. I think what I will do is draft... I have enough to draft the findings and then also we're also missing Board members, so I can have it drafted in a way that the findings are adopted and then the Board makes a motion for either neg dec or a positive declaration at the next meeting.

Chair Hext: That works. Does everybody agree with that?

Board Member Ramirez: I would feel more comfortable.

Board Member Litten: Yeah.

Chair Hext: Yeah, I think so too. It's difficult and it's by no fault of anyone but to not have the input from two Board members, but that's why we have seven people. Okay, then you will...

Board Member Muhlfelder: Yes.

Chair Hext: Thank you. Ginger, are you okay? Have you kept up? Do you have any questions? Anybody? Jeff? Tresa? Okay. All right then. Thank you, everyone for hanging in there. Sorry. If anybody needs to take a break, we can take a few minute break here. Other than that, I can get to the next topic of discussion, which is a pre-concept review of an application by Mrs. Doak to remind us of the sub division of 138 Western Avenue tax map. 37.14.2.5. Let's just take a sec. Would you like to give us a quick... Tell us your name.

Mr. Doak, Applicant: Sure. My name is Darrell Doak. I live at 37 Glenwood Street and I'm here with my wife Patty. We're requesting a minor subdivision at 138 Western. We've never done this before. We met with Gary on a number of occasions and he helped us, went above and beyond with the application and the maps and things like that. And he told us that that's what we had to do and to come before you.

Just a little quick background on the property itself. It's been in the whole family since late '60s, maybe early '70s. Currently on the property in the house, there's still family living there. We're looking to subdivide. The original owner, my mother-in-law, she just went into assisted living and the bills are piling up. So we're looking to separate the property from the residence and looking to sell that.

Chair Hext: Is the property that you're looking to subdivide, is that where it hasn't been cut?

Mr. Doak, Applicant: It hasn't been...

Chair Hext: Cut. It's not mowed. I walked past there today and I'm like, "Oh, maybe they're giving us a visual here and..."

Mr. Doak, Applicant: I don't know. I don't live there. It's my brother-in-law and his family that live there, so I don't know whether it's been cut.

Chair Hext: And what size homes are you thinking about putting in there? What acreage would each...

Mr. Doak, Applicant: I'm not looking to put anything in there. I'm just looking to subdivide it so we can sell off the property itself. I'm not looking-

Chair Hext: You're not doing it yourself.

Mr. Doak, Applicant: No, no, no. We're just looking to pay some bills.

Board Member Ramirez: Okay. So I apologize, just to confirm, because it's not a thing, it's a small section over here that you're subdividing on what I would call the sub-

Mr. Doak, Applicant: Can I come look?

Board Member Ramirez: Absolutely. I apologize, but this is the small subdivision you're trying to create.

Mr. Doak, Applicant: Well, this is where house-

Chair Hext: That's the existing house.

Mr. Doak, Applicant: The house is here. This is the property that's vacant. This is what we're looking to sub.

Board Member Ramirez: Okay. The other way around.

Mr. Doak, Applicant: But the house itself is on that piece of property right there. We have talked with Steve Walrath who will go out when we ask him to, to find the markings that are there or survey as necessary, put new markings in. When I was talking with Gary at one of our meetings here, he thought that that original dotted line was when they first purchased the property, they were two separate properties and they were put into one. I don't know that for a fact, nor would I ever have thought that without Gary saying that. That may have been what happened.

Chair Hext: Just one, actually, two considerations that I have going forward, and this is just pre-application is (1) That's a historical site. (2) It's a burial site for Mr. Groot who is of the Revolutionary War. So there is a historical site marker there and it also says it's the burial site of. So any building or any subdividing that may be done, that would to be taken into consideration as to not to disturb and going forward. Just something to think about.

Mr. Doak, Applicant: Okay. And just so I know, would that mean where the boundaries are set as to where it's subdivided or would that be after it's sold or...

Chair Hext: I think that would just be a consideration of the subdividing that... I looked. I didn't see anything specific in our code. It just said that we needed to be cognizant of the fact if it's a historical site or if it's a burial site. Albany County may chime in on that. I don't know if you have any history on something like that. I know it's something that certainly we haven't come across, but I would definitely say we need to look at that a little further down the line so as to not disturb anything of historical significance or certainly someone's resting site.

Attorney Clarke: It would be beneficial perhaps to reach out to the State Historic Preservation Office. They'll typically identify if there's any sensitive archeological resources that could be impacted.

Mr. Doak, Applicant: Okay.

Attorney Clarke: And they've got a pretty user-friendly site where you plug in the site information and they send it back to you. Did you write that down?

Chair Hext: Got it? I was going to write it down for you. Okay. Thank you. Does anyone have any other questions?

Board Member Ramirez: I do not.

Chair Hext: Okay, then could I have a motion to set a public hearing going forward on this? So that would be just to get it in the public record, that would setting a public hearing for August 22nd if that works for... Okay. Board Member Ramirez made the motion, seconded by Simon Litten. **Roll Call: All in Favor.**

Board Liaison Matulewicz: Hey, Deb, I just have a quick question.

Chair Hext: Sure.

Board Liaison Matulewicz: It says that the property's in a trust.

Chair Hext: Can't hear you.

Board Liaison Matulewicz: It says the property's in a trust. Are there any (inaudible...) that would keep this from going forward?

Attorney Clarke: We just need evidence that whoever's appearing has authorization similar to if it were a company and you had an employee here. Think it'd be beneficial to have in the file that the representative is authorized to act behalf of the trust.

Mrs. Doak, Applicant: I'm Patty.

Chair Hext: Hi, Patty.

Mrs. Doak, Applicant: We're in the process of doing all of this for my mom, for her care. So that's on the other side of things that's being done right now.

Chair Hext: Well, you think you'll be ready by the... Well, if you're not ready by the 22nd, let us know.

Mrs. Doak, Applicant: We'll be good.

Chair Hext: Okay.

Mrs. Doak, Applicant: Thank you.

Chair Hext: Thank you. Thank you, Tresa. Good point. I'm all over the place on this just because we changed things, but all right. I'm going to hop to review of application for a variance requested by Mr. Spring for a wood or vinyl fencing, six foot and height at 157 Bozenkill Road, tax map 37.09-1-2.1. Hi, you look ready.

Robert Spring, Applicant: Why waste time. Good evening Board members, thanks for hearing us out today and good evening fellow citizens. We are coming before you to ask and hopefully approve a variance request for a fence. Typically, we like the natural setting, but as you see in our packet, water has been changing and we're losing a huge amount of our arborvitae to a lot of wet conditions.

It is natural occurring. It's not like we changed anything. The arborvitae are probably 15 to 20 feet tall. They've been there for many years. The problem is, is if we cut them down and put more arborvitae in, we're just going to be back to the same situation and I'll be before you again on an evening like this. So we're coming to you to request a fence. It's approximately 113 feet. It will be L-shaped. So about 80 feet come from the corner of the house, which you can see.

There's a map there that you can see. It runs about 81 feet and then it goes into an L shape. And that is to replace the arborvitae that we've had there. And that would be between our property at 157 and Paul Miller's property at 163 Bozenkill. The only thing that had to change is we had to... Paul and we got together to take down a rather large willow tree. Probably was 50 feet tall. It was planted by Laura Frawley for those that may go back that far, Aunt Laura. It had to come down. That took a lot of the water, but it had to come down because it was completely rotted out. So we're in this predicament and we're coming to you for a variance.

Chair Hext: Why do you feel you need a fence?

Mr. Spring, Applicant: I think to... Well first off, we do have the fence going around the pool area and we felt like if we just continued that fence to add to our property. Right now, the arborvitae, if we just cut them all down and all that stuff, we would be flowing right into our neighbor's backyard. We don't have any separation there.

We are approximately 180 feet off the road. So it's Paul's backyard, even though it's our front yard. So the fence would just give us some separation and it would allow us to continue. We love our gardens, so we would put gardenings, things like that on our side of the fence.

Chair Hext: Would you do anything to mitigate the look of the fence to your neighbor?

Mr. Spring, Applicant: No, the fencing would be the same on both sides. So we haven't made up our mind yet. Do we want a vinyl? Do we want wood? But it would be something that would be attractive on both sides.

Board Member Ramirez: I would have a concern of color. I know maintenance is an issue for some. A white vinyl fence would be kind of stark. I use the word offensive to some people, but so I don't know what could be put in there and blend more the natural and...

Mr. Spring, Applicant: Yeah, I don't know if you saw our property at all, but we too love the natural look. We have not been fence shopping, trying to get materials and get somebody to install. It was like shove that aside and come to you folks first. But we would have to take that into consideration as well. We do like the natural look and that's why we had the green wall we would call it.

Board Member Ramirez: Now within that green wall around the pool, what kind of fencing do you have? There is that chain link?

Mr. Spring, Applicant: Around the pool is black chain link. They claim it's mostly invisible and that's why we purchased that, so that we could continue to see nature around the pool.

Board Member Litten: Do you have a letter from your neighbor supporting this project?

Mr. Spring, Applicant: We did. Well...

Fire Chief Paul Miller: We'd like to see a nice gold brick wall. I have no problem with the fence going up there.

Mr. Spring, Applicant: If you open up that door, he will go through it. Paul and I and Mary Beth, my wife, we did discuss it. I mean, it's just an issue where the bottom of the arborvitaes, once a beautiful wall, now are all dead. They're probably six foot high. They're completely dead. Frankly, it's ugly. It is just frankly ugly and there's no other word for it. We're just trying to enhance the property on both sides.

Board Member Litten: Is this higher level of moisture, do you feel that it's a consequence of taking down the dead willow or the dying willow?

Fire Chief Paul Miller: It's a combination of the willow tree and the runoff off the road from work that was done across the street that has flowed right down through there.

Chair Hext: And has washed your property out many times.

Mr. Spring, Applicant: Yeah.

Mrs. Spring: Okay. And now the way it comes just kept our arborvitae with wet feet. Our arborvitae don't like wet feet. So that's why they begun to die off.

Mr. Spring, Applicant: If you ever get the chance to take a walk in the rain, come down to Mr. Miller's house. It's an amazing thing. The water runs along the road, takes a sharp right and goes right towards his driveway and in between our property. And it is literally the most unusual phenomenon. I've never seen water do this, but I'm talking a sharp right. And it goes right to his house. It's amazing and it happens every time it rains. So to answer your question, it's not anything that was occurring as a result of the willow. Aunt Laura planted the willow there, knowing darn well where the water went all those years ago. We're just dealing with the fallout of mother nature.

Mrs. Spring: I would just add, if I could that our front yard is Paul's backyard and that's kind of a unique situation where the things that you put in your backyard that Paul has - a shed and things in his backyard - aren't necessarily the things that you put in your front yard. And there's, from our porch to his property line is exactly 20 feet, which we had to have when we built the house. So it's just a matter of different activities that you live when you... in a backyard as opposed to a front yard. And so that's why we're kind

of looking for a little bit more privacy there too for us, in all honesty. Paul can have his privacy for his backyard too, but there's not a lot of houses in Altamont where your front yard is somebody else's backyard. And where the L comes by, that's the back of Paul's garage. So the back of his garage is in my front yard. Again, not an optimum visual kind of thing.

Mr. Spring, Applicant: And we asked Paul to paint it gold.

Mrs. Spring: And he refused. I'm not sure why.

Chair Hext: Thank you.

Mr. Spring, Applicant: Did that help?

Chair Hext: I think at this point, we-

Board Member Witham: I have one question.

Mr. Spring, Applicant: Yeah.

Board Member Witham: I know your house sits way back from the road. So would any of the fence be visible from the road?

Mr. Spring, Applicant: Actually, probably the "L" that my wife just referred to that might be going back towards his garage - that is kind of facing the road. But that's 80 feet from the road and we have yet again another row of arborvitae.

Mrs. Spring: I don't really think it would be, I mean the...

Mr. Spring, Applicant: It's at an angle.

Mrs. Spring: The shortest part of it is behind Paul's garage. And then... well he does... you have a little tiny breezeway there - maybe like an eight foot breezeway. And then his house.. and then coming down. I doubt you've ever seen my arborvitae if you've ever walked past my house next to my front porch.

Mr. Spring, Applicant: So it's still 80 feet back. And I think the concern about... If the concern is about a stark white vinyl fence that would be visible and glowing at night, we can certainly take that into consideration when we look at fencing. We just haven't gotten there yet.

Mrs. Spring: That's a lot of fencing to put vinyl up.

Chair Hext: Anyone else? Sorry Andrea.

Board Member Witham: It's okay.

Chair Hext: Okay. I think we have enough then to schedule the public hearing. Could I have a motion then to schedule a public hearing regarding the application for a variance requested by Mr. Spring for 8/22? Board Member Litten made the motion, seconded by Board Member Ramirez. **Roll Call: All in Favor.**

Board Member Ramirez: If I might... May I? Mr. Spring?

Mr. Spring, Applicant: Yes.

Board Member Ramirez: If I might, can you bring samples, pictures of the fencing that you would be considering?

Mr. Spring, Applicant: For August 22nd? Is that the next time?

Chair Hext: That would be the public hearing, unless you don't think you'll be ready by then. Then we could do the September 26th.

Mrs. Spring: You just want pictures? I mean, not...

Chair Hext: Pictures could work.

Mr. Spring, Applicant: Something that we're considering so that we can address the color issue.

Board Member Witham: Yes.

Mr. Spring, Applicant: Okay. Got it.

Board Member Ramirez: The style, color.

Mr. Spring, Applicant: We'll do our best.

Board Member Ramirez: Thank you.

Mr. Spring, Applicant: Sure.

Board Member Ramirez: Thank you very much.

Chair Hext: Okay, last but not least, and I'm sorry, is review of application for a special use permit requested by Mr. Wolff. Refinished part of her basement to create an apartment for applicant's elderly mother-in-law. Okay. Would someone like to come up and give us a quick synopsis please? Or slow synopsis. Whatever works.

Chris Wolff, Applicant: I mean, I think it's pretty straightforward. I'm Mr. Wolff. I don't know if you... It's just that her mother recently... had to leave where she was living and she just lived a couple houses down from us. So we're just trying to create a place for her. She's 80 now, 81 now. It's her mother. And so we're just trying to create a place that has her own privacy, her own entrance. There's already an entrance there. It doesn't change the footprint of the structure at all. It just adds a bathroom, a kitchenette, and a bedroom in one side of the basement that's mostly unfinished now. So it's just finishing the other half of the basement for her to live in.

Chair Hext: And there's ingress and egress there?

Mr. Wolff, Applicant: Yes.

Chair Hext: Is it just the door? Is it...

Mr. Wolff, Applicant: Just a door that goes to the backyard, yeah. And there's going to be another door that goes into the other half of the basement and there's two doors that go outside of the basement, which are... It's a basement, but they're ground level because of the slope. So they go straight outside.

Chair Hext: Will there be any type of ingress or egress in the bedroom area itself, like a window that in the event...

Mr. Wolff, Applicant: Yeah, there are windows too on the side of the house where we're finishing. There's already two windows on that side of the house. One would be in the bedroom, and one would be in the kitchen area.

Board Member Ramirez: What size are those windows?

Mr. Wolff, Applicant: I don't know the exact size.

Board Member Ramirez: Okay. She mentioned egress in case of an emergency, whatever it may be. On that bedroom, even if it's below ground, because you don't have an elevation-

Mr. Wolff, Applicant: It's not below ground. It's above ground.

Board Member Ramirez: Okay. Because I didn't see the elevation. That was one of my questions. But a person would have to be capable of going out that window. 24 inches wide is not good enough. I'm just letting you know.

Mr. Wolff, Applicant: So how wide is-

Board Member Ramirez: I believe it would have to be minimum three feet.

Chair Hext: I think it's 36. But I would like to see a window made for that purpose that in the event she had to get out.

Mr. Wolff, Applicant: Yeah, we can have the contractor put that into...

Chair Hext: You don't want... That's not something you want to ever think about.

Mr. Wolff, Applicant: Of course. Yeah.

Board Member Ramirez: Yeah. That would be the second egress, because I don't see any windows on the... I'm picking on your plan, all right. Don't panic. The door that's from the bedroom that you said goes into the basement...

Mr. Wolff, Applicant: There's a door there now.

Board Member Ramirez: Yeah. That would not be considered an egress.

Mr. Wolff, Applicant: No. There would be another... We're putting another doorway in that connects to the other side of the basement as well.

Board Member Ramirez: Yeah. If it goes into the basement and they have to go through the basement to get to another door that's not considered an egress.

Mr. Wolff, Applicant: Okay. All right. But a window and the other door would be two. That would fine. Okay.

Chair Hext: There's no handicap issues or anything like that?

Mr. Wolff, Applicant: No.

Chair Hext: Nothing you would have to consider going forward?

Mr. Wolff, Applicant: No.

Chair Hext: Hopefully

Mr. Wolff, Applicant: Nothing foreseeable now anyway. Hopefully not.

Board Member Litten: Door is wide enough for a wheelchair?

Mr. Wolff, Applicant: Yeah, it's a full size door.

Chair Hext: All right. We'd have to set a public hearing for this. So I think we have everything we need unless... Barb, Andrea, I don't want to discount anything here... to set a public hearing.

Board Member Muhlfelder: I think, Danny, did you have something you wanted to say?

Board Member Ramirez: I'm just waiting for you to finish. Oh, if you would come back with other plans with the windows, the sizes, because we would be approving, if anything would be the case, that plan. And we need dimensions on there accordingly.

Chair Hext: You said you were going to have a contractor?

Mr. Wolff, Applicant: Yeah, we already have a contractor.

Chair Hext: So maybe a contractor could give us something a little bit more descriptive as far as the window size and what type of window, what type of... Because we would be remiss in order to approve something that didn't have, I forget, what's the window called, Danny? That you can go in and out of. There's a word for it.

Board Member Ramirez: It's just emergency exit, an egress

Chair Hext: I need the other half of my brain. So you think... Would you be ready by the August 22nd?

Mr. Wolff, Applicant: I think so. Yeah. It wouldn't be a problem.

Chair Hext: Because we can certainly... If not, again, like I said before, if anything comes up, if you need to delay it, just call Gary or Ginger and let us know.

Mr. Wolff, Applicant: Okay.

Chair Hext: Other than that, it might be a little long night to have three public hearings, but I think we can do it. I don't want to put it off any longer than we have to.

Mr. Wolff, Applicant: Yeah, us either, because she's living in a small bedroom in our house now so we'd like to give her some space.

Chair Hext: All right. We'll do our best. As long as you give us-

Mr. Wolff, Applicant: I mean, we wanted to do it the right way. That's why we're here. So, yeah.

Chair Hext: I mean, we can't say, "Oh gee, I'm sorry about that. So go ahead. We'll approve it."

Mr. Wolff, Applicant: Yeah, of course.

Chair Hext: We have to be careful, but I certainly appreciate - having had elderly parents years and years ago - I appreciate when someone does this for their parents. Okay. I think... Tresa.

Board Liaison Tresa Matulewicz: For the kitchenette, that would need to be vented with a stove.

Mr. Wolff, Applicant: Yes.

Chair Hext: Is it electric or gas?

Mr. Wolff, Applicant: It's going to be electric.

Chair Hext: Okay. It doesn't need to be vented. Right, Danny?

Board Member Ramirez: Bathrooms definitely need to be vented either by window or mechanical. But kitchens, I'm not so sure about the necessity of a kitchen being vented, the appliances.

Board Liaison Matulewicz: If it's a gas range, it doesn't.

Chair Hext: If a gas range it-

Board Member Ramirez: Gas or electric, doesn't matter. I will look into that. Okay? Bathroom. Either a window or mechanical venting.

Chair Hext: Right. What did you say about the venting?

Board Member Ramirez: Which one?

Chair Hext: Either/or? Electric doesn't have to be, gas has to be for the range.

Board Member Ramirez: Any cooking appliances, to the best of my knowledge, it doesn't have to be vented right now? I will look into it. Okay?

Chair Hext: I just went through this with my niece. We did a walkthrough on the house and the gas range was not vented and the house inspector flagged it. But that's Colonie now. Could be different.

Board Member Ramirez: Then it has to go through a test where you have up to 100 parts per million carbon monoxide generation in a certain period of time. If that generates it, then you know, you got to go-

Mr. Wolff, Applicant: Well, this will be electric.

Chair Hext: This will be electric, so it's a moot point really. But it's a good thing to know.

Mr. Wolff, Applicant: Yeah.

Board Member Ramirez: I mean, you're doing construction, why not vent it, have a vent hood on it?

Secretary Ginger Hannah: When my daughter lived in Rochester and she moved into an apartment, they had gas ranges and we looked into that too. And I know that I read something that said that gas ranges were supposed to be vented.

Chair Hext: They didn't have to be, or they had to be?

Secretary Ginger Hannah: They were not vented. So I don't know if they can be grandfathered or something like that.

Board Liaison Matulewicz: But I remember reading something that you have to vent electric but not gas. And I found that surprising.

Secretary Hannah: This was the other way around gas ones had to be vented, which makes sense, I guess, with an open flame.

Chair Hext: I don't know. They'll probably have a range hood anyway. Again, good point. So public hearing, August 22nd, 7:00 PM unless you tell us you're not ready.

Mr. Wolff, Applicant: Thank you.

Chair Hext: Thank you. Didn't we already have a vote? Did we have a vote on the public hearing on this one?

Secretary Ginger Hannah: No.

Chair Hext: Oh, God. Okay. Can I have a motion then to hold the public hearing on August 22nd to hear the application for a special use permit by Mr. Wolff? Motion was made by Board Member Ramirez, seconded by Board Member Witham. Roll Call: All in favor.

Okay. I think other than reviewing the minutes, tell me if I'm wrong, making sure, because this thing is all over the place. Yep. Other than reviewing the minutes of June 28th, I think we're good. Ginger, great job.

Board Member Ramirez: Amazing.

Secretary Hannah: The thing is that at a public hearing, it does get transcribed -

Chair Hext: It gets recorded, but still, I know you sit through that day after day after. You're not fooling me. Anybody have any questions, Barb, on the minutes?

Board Member Muhlfelder: No, they were good.

Board Member Litten: I have two very minor comments.

Chair Hext: Okay.

Board Member Litten: On page 19, third paragraph. This is so small that I'm embarrassed to bring it up, but-

Board Member Ramirez: Where it says I've never been flooded out?

Board Member Litten: Yes.

Board Member Ramirez: Okay.

Board Member Litten: This is testimony he worked for NIMO. You have it. N-Y-M-O. I think that's Niagara Mohawk, which should be N-I-M-O.

Chair Hext: And should be National Grid.

Board Member Litten: All right.

Board Member Witham: Yeah, but it may have been NIMO at the time.

Board Member Litten: But what the Deb said was NIMO.

Chair Hext: Right.

Secretary Ginger Hannah: I will change that to N-I-M-O.

Board Member Litten: Yeah. Very minor. But the other thing that I found, she mentioned Phyllis Schilling and if it's the Phyllis Schilling I know, or knew, she passed away, it's S-C-H-I-L-L-I-N-G.

Chair Hext: Yep.

Secretary Hannah: Is that on the same page?

Chair Hext: Yes. Next paragraph.

Board Member Litten: It's the next paragraph.

Secretary Hannah: Okay, great. Thank you.

Board Member Litten: Yes. It's Phyllis Schilling. S-C-H.

Secretary Hannah: Okay.

Board Member Ramirez: Good catch.

Chair Hext: Wow. You guys are good. Okay. If there's nothing else, can I have a motion then to approve with those corrections the minutes from June 28th, 2023? Motion made by Board Member Muhlfelder; seconded by Board Member Ramirez. **Roll Call: All in Favor.**

Chair Hext: Okay. Then could I have a motion to adjourn the meeting? Motion made by Board Member Litten, seconded by Board Member Muhlfelder. **Roll Call: All in Favor.**

Chair Hext: Thank you, everyone. The next meeting, August 22nd, be prepared. It's probably going to be a long one, but it's what we do.

Respectfully Submitted,



Ginger Hannah, Secretary

Attached: Pages 1 and 23-40 of 6/28/23 ZBA Board Meeting with Engineer for Village Brad Grant's comments.

1st page + pages 23-40 of
6/28/23 minutes with
comments from Village
Engineer Brad Grant.

Village of Altamont Zoning Board of Appeals
Regular Meeting
June 28, 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 Hyde Clarke for Village
Ginger Hannah, Secretary
Tresa Matulewicz, Board Liaison
Jeff Moller, DPW Superintendent
Paul Miller, Fire Chief

Applicants: Lauren Simon/Sunoco
Rolando Andres, Project Manager for CM
Fox Subdivision Applicant

Guests: 13

Chairperson Hext opened the meeting at 7:00 p.m. and said Good evening everyone. Welcome to the Village of Altamont ZBA Meeting. Exits are to your left here, my left, your right, and back and here as well. For the record, tonight's meeting is being recorded, both audio and video. It is Wednesday, June 28th, 2023, and it's 7:00 pm. Just a note for the official record - it's being held on a Wednesday tonight instead of Tuesday as our normal night because of the election that was held in our Village hall yesterday. My name is Deborah Hext, I'm the ZBA chair. Will each member of the Zoning Board please introduce yourself, starting from my left. The Board Members introduced themselves as follows: Danny Ramirez, Simon Litten, Andrea Witham, Bob Freeman, James Sullivan and Barbara Muhlfelder. Also representing the Village: Attorney Hyde Clarke; Ginger Hannah, ZBA Secretary; Gary Goss, our Building Inspector; Tresa Matulewicz, our Board Liaison; and Jeff Moller, our DPW superintendent.

There are two items on tonight's agenda, both of which are public hearings. If you wish to speak at the Troy Miller subdivision, I ask that if you've been up here before and everything's been recorded, we don't need you to repeat it, just for the sake of moving things along and giving everyone a chance to speak. Other than that, we can get started. And the first item on tonight's agenda is holding a scheduled public hearing on a sign permit submitted by Sunoco Gas Station at 200 Main Street.

Attorney Clarke read the Legal Notice opening the Public Hearing (see attached copy).

Chair Hext: Thank you. Okay. That opens the public hearing. If you want to come up and just give a quick rundown of what we discussed the last time. I don't know if you came with any new material.

Ms. Simon, Sunoco Rep: No. Just what's been posted on your website. So the proposal is to replace the existing sign on the pole as well as including Sunoco on the canopy. Sunoco's new re-imaging requires us to bring all of their new imaging onto the site and the illumination would be less than what it is now. The sign is much more appealing and the canopy would have Sunoco on two sides and then the one diamond, which I think we said at the last meeting, that it would not go above the roof line, which is one of your requirements. And that's essentially it.

Chair Hext: So we had asked at the last meeting if you could come back with something a little less obtrusive, similar to what Stewart's has.

Chair Hext: Oh, that little booklet?

Board Member Litten: ... in the soil document that we got last year there is... It talks about three different kinds of soils that are on the site. One of them is, and it's the majority of the area, is a teal silt loam. And on page 14 of the little booklet, it says, depth to water table about 18 to 24 inches.

Commented [BDG1]: It is not uncommon for the county soil survey to differ than actual test pits. Near western Ave. one of those lots is near a wetland adjacent to the site and recall a condition that house not have a basement.

Board Member Ramirez: That would be a yes.

Board Member Litten: And I don't know where that number comes from, but that's what it says in the handout that we received.

Board Member Ramirez: Thank you.

Commented [BDG2]:

Chair Hext: Okay, so then, I mean that...

Attorney Clarke: Moderate to large.

Chair Hext: Yeah. So then, given that, and given what this says, it would be a moderate to large impact may occur. The proposed action may involve construction on site slopes of 15% or greater. I don't know that...

Attorney Clarke: The slopes should be here...

Board Member Ramirez: Can we defer to the surveyor, who's present, to see if there's 15% slopes or greater?

Commented [BDG3]: Less than 10%. Substantially so for most of it

Attorney Clarke: So, we can rely on the environmental assessment form that was submitted and that says that 100% of the site is zero to 10%.

Board Member Ramirez: Okay.

Chair Hext: So then, that would be no or small impact.

Attorney Clarke:

Correct. Yeah.

Chair Hext: The proposed action may involve construction on land where bedrock is exposed, generally within five feet of existing ground surface.

Commented [BDG4]: No exposed bedrock (above surface)

Attorney Clarke: So the EAF notes that bedrock is greater than seven feet.

Commented [BDG5]: Test pits did not encounter bedrock at around 8' I believe

Chair Hext: All right. So then, moderate to large may occur. The proposed action may involve the excavation and removal of more than a thousand tons of natural material.

Commented [BDG6]: Little to no impact. Less than a thousand tons

Board Member Muhlfelder: How could you tell?

Chair Hext: Do you have an answer?

Attorney Clarke: I'm not sure they did.

Chair Hext: Can you answer that?

Rolando Andres, Project Manager: I'm sorry.

Chair Hext: You zoomed out?

Attorney Clarke: Oh, removal of a thousand tons or more of natural material.

Project Manager Rolando Andres:

Ro Andres, project manager for Walrath Land Surveying and Land Planning. No, there is not any plan to remove that much material from the site.

Chair Hext: Okay. So that's a no as well. The proposed action may involve construction that continues for more than one year or in multiple phases?

Attorney Clarke: That's yes.

Chair Hext: That would be a, yes, I would say. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal, including from treatment by herbicides. I think based on what we're hearing, that would be moderate to large. If anybody disagrees with anything, smack me upside the head. The proposed action is or may be located within a coastal erosion hazard area?

Attorney Clarke: No.

Board Member Ramirez: No.

Chair Hext: I would say that is a no. Okay. Other impacts? I don't think there's anything.

Board Member Litten: For answer to F, the proposed action may result in increased erosion, why do you think that's a moderate to large impact?

Chair Hext: Just based on the disturbance of vegetation, the trees that they're going to be removing, they say it's less-

Board Member Sullivan: Increasing more impervious surfaces.

Chair Hext: Right. They say that it's less than an acre, five acres of disturbance. Even four acres of disturbance, I think, could affect erosion. And just general, I mean, like everybody's been saying, I just... I'm concerned that removal of trees and grasses could result in an issue. I mean, we could come back to that, we can ask Brad that.

Board Member Litten: I saw somewhere, and I'm not putting my fingers on it, where they said they were going to use pervious surfaces.

Commented [BDG7]: I recommended rain gardens for water quality and water quantity on the lots. A stabilized swale/small berm adjacent to the Marion Court to direct controlled runoff towards the creek.

Commented [BDG8]: With low slope lands, well vegetated there should be little to no erosion. Able to mitigate via design and good execution.

Chair Hext: Pervious surfaces? They did...

Board Member Litten: Yeah. I saw that somewhere. Is that... Am I wrong on that?

Chair Hext: I don't remember that, but that doesn't mean anything.

Board Member Litten: Yeah. Well...

Attorney Clarke: So just on that point, that could be a consideration I think later on, but even if they use pervious material, they're still removing what's there, which I think is what -

Board Member Litten: Okay.

Attorney Clarke: ... that question's pointing to.

Chair Hext: Thank you, Simon.

Board Member Ramirez: Under other impacts, there was a note regarding the bats.

Attorney Clarke: That'll come up later for animals.

Board Member Ramirez: Okay. Thank you.

Chair Hext: Okay. Number two, Impact on geological features. The proposed action may result in the modifications, or destruction of, or inhibit access to any unique or unusual land forms on the site. For example, cliffs, dunes, minerals, fossils, caves.

Board Member (?): No.

Chair Hext: Is that, I would think that's a no.

Attorney Clarke: Okay.

Board Member Litten: Yeah, there's nothing over

Chair Hext: When we say no, we don't have to go through the other ones.

Attorney Clarke: Correct. Yeah.

Chair Hext: So, we're going to move right to number three, Impacts on surface water. The proposed action may affect one or more wetlands, or other surface water bodies, streams, rivers, ponds, or lakes - I think is a yes.

Board Member Ramirez: There are no wetlands there. There's a floodplain, and I know that the soil is... moist, but that's not a wetland?

Commented [BDG9]: Lawns/landscaping are pervious surfaces that will be on the lots. Vegetated rain gardens are also pervious.

Chair Hext: I don't think it's officially on the Army Corps of Engineers wetland or, I don't think there's anything official on that. And Gary had done a drawing at one point, printed something out, and that wasn't that area, that acreage, was not considered wetland.

Commented [BDG10]: NYSDEC has a summary document for any specific site that informs on many environmental issues including wetlands. That supplements the applicants data in Part I of the EAF with known existing conditions.

Board Member Ramirez: Right.

Attorney Clarke: The applicant in the EAF does identify that the project site adjoins wetlands or other water bodies.

Board Member Freeman: Well, that be the creek, I would assume is what they're talking about, but that's like floodplains.

Chair Hext: Water bodies, yeah, but wetlands, I'm not sure.

Attorney Clarke: Well, so it's not just wetlands or other surface water bodies-

Chair Hext: Right.

Attorney Clarke: ... streams, rivers, ponds, or lakes.

Chair Hext: Well, we have a, yes, there anyway.

Attorney Clarke: Okay.

Chair Hext: So, A, The proposed action may create a new water body?

Board Member Muhlfelder: No.

Board Member Sullivan: No. There was no plan for a retention pond or anything.

Chair Hext: There wasn't? I thought there was a plan for a retention pond.

Board Member Sullivan: No.

Attorney Clarke: Yeah, even a retention pond wouldn't necessarily be a water body. It would be a stormwater measure.

Commented [BDG11]: Some stormwater practices retain water, some like a rain garden are temporary but not a permanent water body. Dewater by infiltration where soil is amenable.

Chair Hext: So that would be, no or small impact may occur. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.

Board Member Muhlfelder: No.

Chair Hext: That would be a no. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body. If it adjoins a wetland, I suppose it's possible, but maybe it's a... Did they answer no on that one?

Commented [BDG12]: No excavation in wetland

Attorney Clarke: Yeah. No, there's no wetlands on site.

Chair Hext: Okay. Sorry. That would be a no, but again, we can come back to this once Brad reviews what we said. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body. I would say that's a yes. The proposed action may create turbidity in a water body, either from upland erosion, runoff, or disturbing bottom sediments.

Commented [BDG13]: No to small impact. Not going into stream.

Attorney Clarke: So the consideration would be a runoff. It's not disturbing bottom sentiments, but...

Board Member Freeman: But it's not in a watershed or anything like that. It's just water runoff.

Board Member Litten: What was the... I thought that Deb's testimony was that she saw under rainstorms large flows coming out of that area.

Chair Hext: I think they were, I don't know... that was during Ida or something, that was during a major storm though, right?

Commented [BDG14]: I recall Hurricane Floyd. Large runoff from uplands moved and dispersed thousands of large rocks and blockages forcing water above and outside the normal channel. Not a typical thing.

Resident Deb Johnson: When it rains. There's plenty of water. There's standing water in that lot, right now.

Chair Hext: Okay. Well, we can make that a yes. We can make that a moderate or large impact may occur.

Resident Deb Johnson:

It's like slimy clay.

Chair Hext: Yeah, we'll make that a moderate or large impact may occur, that way we can revisit it and certainly have-

Attorney Clarke: Yeah, that's where the engineer will be important for.

Chair Hext: And certainly have Brad-

Commented [BDG15]: Any ponding is likely temporary. With proper grading it can runoff the site toward the creek. Moderate seems appropriate

Attorney Clarke: That's the plan, yeah.

Chair Hext: ... that's what I was going to say.

Attorney Clarke: Yep.

Chair Hext: Anyone, what I'm doing here is, any one that we have questions specific for Brad, I'm writing "Brad," so that we can address it. The proposed action may include construction of one or more intakes for withdrawal of water from surface water. I don't know what that means.

Board Member Muhlfelder: No.

Attorney Clarke: If their water source was going to be from a pond or-

Chair Hext: So, I don't know if you're hearing... So that would be from a pond or if that's their water source and they're not, it's going to be Village water. So, no, or small impact. The proposed action may include construction of one or more out fills for discharge of wastewater to surface water. I think from what they're proposing... grinder pumps and

Board Member Freeman: It's all city sewer, basically.

Chair Hext: What's that?

Board Member Freeman: Grinder pumps are going to go into the city sewers, so it's not going to be...

Chair Hext: So I would think that's a no or small impact. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to a situation or other degradation of receiving water bodies.

Board Member Freeman: I would say yes.

Chair Hext: I would say, yes. The proposed action may affect the water quality of any water bodies within or downstream of the site of proposed action. This, again, could be a Brad (question), I don't know what they answered. They answered, no, probably.

Board Member Ramirez: Well, there's nobody on well water there, is there?

Chair Hext: What's that?

Board Member Ramirez: Nobody's on well water?

Chair Hext: No. I don't believe so, nobody's...

Board Member Ramirez: But if they're on city water shouldn't affect them.

Chair Hext: Yeah, they're on Village water.

Board Member Litten: Yes. Yes, but that creek goes into the Watervliet reservoir, which is the Village, which is the town water supply.

Chair Hext: Well, no, it's Watervliet's water supply.

Board Member Litten: It's Guilderland-

Board Member Freeman: No, it's Guilderland.

Board Member Litten: Guilderland. Yeah.

Chair Hext: Is it Guilderland too?

Board Member Litten: Yeah.

Commented [BDG16]: Watervliet's and Guilderland water supply. This project is in the reservoirs watershed and basic stormwater treatment can mitigate with rain gardens or similar practices I discussed early on during my review comments previously.

Board Member Freeman: It's part of Guilderland's Water Supply.

Board Member Litten: Yeah. And so, if we're saying that the proposed action is going to cause soil erosion that could impact the stream, then presumably, that impact is going to go downstream.

Commented [BDG17]: The key is to prevent it from first introducing sediments to the local stream with sound engineering, grading, soil stabilization, healthy vegetation and stabilized swales draining to the creek.

Chair Hext: Okay.

Board Member Freeman: Trust me when I tell you, there's not much more that can impact that reservoir than what's going on right now. But yes, you're right. It does go there.

Chair Hext: You're right. Yep.

Board Member Freeman: Yes. Right.

Board Member Litten: Yeah.

Board Member Freeman: Thank you.

Chair Hext: This is why I love my Board. The proposed action may involve the application of pesticides or herbicides in or around any body of water. No, I mean, the construction won't. Will they use herbicides and pesticides, when and if the homes are built?

Board Member Litten: Well, that has nothing to do with the construction.

Chair Hext: So, with the construction, I don't think...

Board Member Freeman: That's an afterthought, if you think about it. I mean, that's when they're taking care of their lawns, you know?

Chair Hext: Or are they going to use any pesticides or herbicides to kill the vegetation to make it easier to...

Board Member Freeman: I think that's just clear cut. You know, more of a mechanical way of getting rid of all that stuff than... They're not going to go through that. I don't think they go through there and spray anything on it.

Attorney Clarke: They haven't represented that they're using any.

Chair Hext: Okay. All right. So that's going to be a no or small impact may occur. The proposed action may require the construction of new or expansion of existing wastewater treatment facilities.

DPW Superintendent Moller: No.

Chair Hext: No? Thank you, Jeff. Okay. Four is impact on groundwater. The proposed action may result in new or additional use of groundwater, or may have the potential to introduce contaminants to groundwater or an aquifer.

Board Member Litten: Yes.

Chair Hext: I think we have to say yes there, a potential exists. The proposed action may require new water supply wells or create additional demand on supplies from existing water supply wells. I would say a yes, right?

Chair Hext: I mean, if it's 11 homes, maybe not. If it's 24...

DPW Superintendent Moller: They're still below your phase two water policy.

Board Member Sullivan: So 11 homes would not be an impact on the water supply? So then, we would say no or small.

Board Member Muhlfelder: What about the 24?

Board Member Sullivan: It's not being proposed.

Attorney Clarke: We're not considering the 24.

Board Member Muhlfelder: Oh, that's right.

Chair Hext: Okay.

Board Member Muhlfelder: Sorry.

Chair Hext: Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. That would be a... That's not going to contaminate anything, right?

DPW Superintendent Moller: No.

Chair Hext: Okay. That's, no. The proposed action may allow or result in residential uses in areas without water and sewer services. That's a no.

Chair Hext: The proposed action may include or require wastewater discharged... Or groundwater...

Attorney Clarke: Discharged to groundwater.

Chair Hext: To groundwater. Okay. Yes. We're not saying that wastewater is going to be discharged into groundwater, no. So, I would say that's a no. The proposed action may result in the construction of water supply wells in locations where groundwater is, or suspected to be, contaminated. I would say it's a no. The proposed action may require the bulk storage of petroleum or chemical products over groundwater or aquifer.

Board Member Muhlfelder: No.

Chair Hext: I would say that's a no. We're definitely telling them they can't park their construction vehicles anywhere near-

Board Member Muhlfelder: The creek.

Chair Hext: ... the creek or on West Schoharie Plank, if this does go forward. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources. They're not proposing doing that. So I would say that's a no. Okay. So, I think this next one is the one that everybody's ready for-

Commented [BDG18]: I have seen local boards request that pesticides/herbicides not be used and so noted on the plans accordingly during the construction season. After homes are sold that is another story.

Board Member Sullivan: Are we supposed to be making the yes or no determination after we go through A, B, C? Because we just said no to all of that, but we said yes.

Attorney Clarke: Nope. You do the first question first.

Board Member Sullivan: Okay.

Attorney Clarke: If it's a no, you stop. If it's yes, you go through. So, that's just to help you like, yes, but because of all that, then we could consider it, no, not significant.

Board Member Sullivan: Okay. It's my first rodeo.

Attorney Clarke: Yeah. Okay.

Chair Hext: Okay. Five, Impact on flooding. The proposed action may result in development on lands subject to flooding, and I think that's definitely a yes. All right. So, A, The proposed action may result in development in a designated floodway. They're not proposing building it on Schoharie Plank West.

Board Member Sullivan: The access road is in the floodway, isn't it?

Chair Hext: Is the access road?

Board Member Freeman: The access road is actually ... would be on, basically, the floodplain runs on the residences, just not in the actual build site. So, yeah, the floodplain would probably be, or the driveway, I should say, if that keyhole did go through on Schoharie, I believe that's what I'm seeing here.

Chair Hext: So, that would be a moderate or large impact may occur. The proposed action may result in development within a hundred-year floodplain. Yeah, that's a moderate or large impact may occur. The proposed action may result in development within a 500-year floodplain.

Board Member Sullivan: Well, can we go back to that one? Because-

Chair Hext: Which one? The hundred-year?

Board Member Sullivan: The hundred year-

Chair Hext: Sure.

Board Member Sullivan: ... because none of the buildings are proposed on the hundred-year, only-

Board Member Litten: But the road is.

Chair Hext: But the road is.

Board Member Sullivan: The road? Okay.

Attorney Clarke: The applicant also identified in the EAF that the project site is in the 100-year floodplain, so it would be consistent with what they represented.

Chair Hext: Thank you. The proposed action may result in development within a 500-year floodplain. Did they answer that one?

Attorney Clarke: They said, no.

Board Member Litten: Well, the 500-year and the 100-year are almost identical.

Board Member Freeman: It happened once a year.

Chair Hext: You mean on the map?

Board Member Litten: Yeah.

Board Member Muhlfelder: It's a Brad.

Attorney Clarke: Yeah, I'll mark it.

Chair Hext: Yep. We can do a Brad.

Board Member Litten: Well, if I don't understand the question because if it's within the hundred-year floodplain, it also is within the 500-year floodplain.

Chair Hext: I have it as a yes.

Board Member Litten: Yeah.

Chair Hext: I have it... And confirmation from Brad. Brad is going to review all of our answers and give us feedback on where we're right or where we're wrong. And again, residents, you're hearing us, and that's why I want to leave the public hearing open so that you can comment on what we're saying. You live there, you know it better than we do.

The proposed action may result in or require modification of existing drainage patterns. I would say that's a yes, which is a moderate to large impact may occur. The proposed action may change flood water flows that contribute to flooding. I'd say that's a moderate to large. If there is a dam located on the site of the proposed action, is the dam in need of repair or upgrade?

Board Member Litten: No.

Commented [BDG19]: I don't recall those floodplain lines shown on their map unless recently. The road is within or very close to the 100 year floodplain. There should be means to drain and not pond behind the road on the Western Ave. side of their road at Schoharie Plank. Culvert or low point in their road to maintain drainage patterns insofar as floodplain is concerned is likely needed.

Commented [BDG20]: No. The 500 year floodplain limit is outside or west of the 100 year floodplain limit along the creek.

Commented [BDG21]: Small impact. No dams but a good drainage/grading plan is quite necessary.

Chair Hext: I don't believe there's anything like that on the property. Okay. The next one is Impact on air. The proposed action may include a state regulated air emission source. I think that one...

Board Member Freeman: No.

Attorney Clarke: No.

Chair Hext: That's a no, right?

Attorney Clarke: No.

Chair Hext: So, that's a no. So, we don't have to answer the rest of the questions under six. So, seven is Impact on plants and animals. The proposed action may result in loss of flora or fauna. I think that's a yes.

Board Member Litten: Yes.

Chair Hext: The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species as listed in the New York State or federal government that use the site, or are found on, over, or near the site. I believe that it was identified a long-eared bat, at one point.

Attorney Clarke: North, yeah, Northern Long-eared bat is what's identified.

Chair Hext: Okay. So then, that is a moderate. The proposed action may result in reduction or degradation of any habitat used by any rare, threatened, or endangered species as listed by New York State or the federal government. Again, I think that would be moderate. The proposed action may cause reduction in population or loss of individuals of any species of special concern or conservation need as listed by New York State or the federal government that used the site or are found on over or near the site. I mean, I think we're just, kind of, repeating the same thing. So, I think that would be, moderate to large.

Board Member Litten: I don't think we can say that.

Chair Hext: Can't say what?

Board Member Litten: I don't think we can say that there is a moderate to large impact on threatened or endangered species of special concern. Do we know that such...

Resident Johnson:

Yeah. I've had fox pups underneath. There's deer that go through.

Board Member Litten: Deer are not considered...

Chair Hext: Endangered.

Board Member Litten: ...of special concern.

Board Member Freeman: It's not endangered.

Board Member Sullivan: Only the bats and the bats were merely identified as...

Attorney Clarke: Potential.

Board Member Sullivan: ... potential, right? It's not like there's a nesting site or anything proven like that.

Attorney Clarke: So just to clarify, the question is for threatened or endangered species, so it's not every species or every plant. The applicant's EAF does identify the Northern Long-eared bat as potentially being on site. There is New York state guidance as to what must occur if the Northern Long-eared bat is potentially on site. There's a limit as to when they can clear and cut trees based on that, so...I think we've done enough to identify it and then, we can rely on the state policies as to what would have to happen to allow them to...

Chair Hext: I think there's certain times when you can cut. It's like April or something...

Commented [BDG22]: November 1st to March 31st which is outside their nesting/care of young between april and October.

Attorney Clarke: Prior to March.

Chair Hext: Right.

Board Member Muhlfelder: So is it a yes? Or is it a...

Chair Hext: Yes. I believe it is. Yeah. Okay. D - The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need as listed by New York State or the federal government. This all seems redundant.

Attorney Clarke: Yeah. This one's a little different than... so the Northern Long-eared bat is endangered or threatened. We don't have any other identified species of special concern, so I think where the first three applied to the bat.

Chair Hext: This one...

Attorney Clarke: This one would be if there was another species of special concern. And the applicant has identified that no, there is no other.

Chair Hext: All right. The proposed action may diminish the capacity of a registered natural landmark to support the biological community it was established to protect.

Board Member Litten: No.

Chair Hext: Believe that would be a no. The proposed action may result in the removal of, or ground disturbances in, any portion of a designated significant natural community.

Board Member Litten: No.

Chair Hext: I wish there was an in between. Okay.

Attorney Clarke: Well, even the no is still, could be, small.

Chair Hext: Small.

Attorney Clarke: Yeah.

Chair Hext: Right.

Attorney Clarke: But the key, there, is designated.

Chair Hext: Designated.

Attorney Clarke: Yeah. Which there is that.

Chair Hext: The proposed action may substantially interfere with nesting, breeding, foraging, or overwintering habitats for the predominant species that occupy or use a site.

Board Member Litten: Yes.

Chair Hext: I would think that's a no. Or it's not a no, it's a no or small impact. So, when we say, no, we're not saying, no. It's a small impact could occur. The proposed action requires a conservation-

Attorney Clarke: Conversion.

Chair Hext: ... conversion of more than... thank you, 10 acres of forest, grassland, or any other regionally or locally important habitat? I would say that's a small, no or small impact. The proposed action, commercial, industrial, or recreational project only, involves use of herbicides or pesticides, and that does not apply, it's not commercial, industrial, or recreational. Okay. So then, eight, Impact of architectural... Architectural, no...

Board Member Freeman: Agricultural.

Chair Hext: Thank you... Resources. The proposed action may impact agricultural resources.

Attorney Clarke: So the project site is not located in a designated agricultural district and highly productive soils that would be conducive for agriculture not identified at site, on site.

Chair Hext: Okay. So then, that would be a no.

Board Member Litten: I thought that the soils were highly productive. It's just that it's an R 15, so it isn't an agricultural area.

Attorney Clarke: You're saying the Village's local zoning designation.

Board Member Litten: Yeah.

Attorney Clarke: Yeah, so that is different compared to this question. So it's not asking if it's a local zoning Ag district, but whether or not, at least in the environmental assessment form, it's not in a designated agricultural district. That's on page 12 of the EAF. And the question was: Are agricultural lands consisting of highly productive soils present? The answer was no. Based on those two answers, that's where I had my recommendation. But we can certainly have Brad look at it as well.

Commented [BDG23]: The soil is ok for hay which seems to be the case but the soil is void of highly productive soil from what the test pits showed.

Board Member Litten: Yeah.

Attorney Clarke: Typically, in other projects, if you had an active farm, if you're taking crops out of service, that's kind of where that's getting more towards that question. I don't think the property is actively farmed.

Chair Hext: I don't believe so.

Board Member Freeman: No. It may have been a long time ago, but I think it was-

Board Member Litten: Wasn't it like a hayfield a long time ago.

Board Member Freeman: Yeah.

Resident Speaker: It's always been a hayfield.

Board Member Freeman: Yeah.

Resident Speaker: I'd say it was at least the last 70 years.

Chair Hext: Okay. We'll have Brad check that. Nine, Impact on aesthetic resources. Land use of the proposed action are obviously different from or are in sharp contrast to the current land use patterns between the proposed project and a scenic or aesthetic resource.

Attorney Clarke: The key part about this question is the second half of that, which is a scenic or aesthetic resource. First, we have to identify what the scenic or aesthetic resource is, and if there is one, then potentially there could be an impact.

Commented [BDG24]: Small impact to aesthetic resources.

Chair Hext: Well, I mean the-

Attorney Clarke: So if in the Village's Comprehensive Plan, if we had identified a specific resource or if we had a ... Sometimes, there's an overlay district for a scenic byway, historic homes, landmarks.

Chair Hext: Yeah. It's not in the historic district.

Attorney Clarke: Again, this doesn't mean that there's not an impact on someone's aesthetic resources, it's just very specific to the identified scenic or aesthetic resource that it's having impact on, which is different ... There's a later question about community character, neighborhood impact, which may go more towards how it could impact an existing homeowner as to what their view is, but that's different from impacting a scenic resource.

Chair Hext: Okay, so we'll make that a no for now. Then 10, Impact on historic and archeological resources. The proposed action may occur in or adjacent to a historic archeological resource. Again, it's not in the historic district. I think this would be a no today [inaudible 01:42:38] right... they gave no explanation?

Board Member Freeman: Well, you never know until you dig it up if they find an arrowhead. It could change [inaudible 01:42:48]

Attorney Clarke: ... [inaudible] determination yet.

Chair Hext: I don't know. I don't think so.

Attorney Clarke: Yeah, we can make a mark now.

Chair Hext: Question mark that one.

Attorney Clarke: They identify that it's substantially contiguous to the historic district, not in the historic district, but I felt like you said it was not.

Chair Hext: No.

Attorney Clarke: That's just in there. That's in the environmental assessment form.

Chair Hext: Well, yeah, we can review that.

Attorney Clarke: Jumping back to aesthetic resources, just when I switched to this, they have identified John Boyd Thatcher Park as being within 1.5 miles, so if you felt like there was an impact, the applicant has identified that as being within 1.5 miles. So we could go through that.

Board Member Muhlfelder: I'm sorry, where are we now?

Attorney Clarke: We're asking about the historic and archeological resources, but when I went to the EAF, they do identify John Boyd Thatcher Park.

Board Member Ramirez: Would that be considered adjacent?

Chair Hext: I don't know. I mean, it's not even 1.5 miles away.

Board Member Muhlfelder: No.

Chair Hext: It's longer than that.

Board Member Muhlfelder: Right.

Chair Hext: The escarpment though you can see.

Resident Dean Whalen: I think the high point is now part of the park [inaudible 01:44:24]

Chair Hext:

I can't hear you, Dean.

Resident Dean Whalen:

I think the [inaudible] high point is now part of the park or portions thereof that.

Board Member Freeman: It is. You can hike it now, so it is part of-

Board Member Muhlfelder: You're right, it's right up the hill.

Board Member Freeman: But when they say aesthetic, is it ...

Attorney Clarke: Yeah, I mean if we've identified that, then the first part of that question is it a sharp contrast to current land use patterns? Consider the park and then whether or not this is a sharp contrast to current land use patterns.

Board Member Muhlfelder: I would say no.

Board Member Freeman: I would say no on that. But then you go to the second question, it says the proposed action may be visible from the officially designated ... No. Okay.

Chair Hext: I don't know. If you stood in that field, can you see the overlook?

Board Member Freeman: Well, that's the way I'm looking at it.

Board Member Litten: I think it's the other way around.

Board Member Witham: That's what I was thinking.

Board Member Litten: I think if you are at a scenic site, is this thing, is this development going to be visible?

Board Member Freeman: Oh, is it going to affect the site itself?

Resident Whalen: From high point, you can see my house.

Chair Hext: Yeah, you can see my development from high point. Yeah. Come on up, Dean.

Resident Whalen: Just a personal thought. I think the question is based on is this going to affect that view shed, which for example, they went through great angst in Town of Guilderland when the solar project was proposed still further out because that would look very different than what is there now. Personal opinion, this in whatever form would look very similar to all the rest of the houses in the area, so I'm not sure that that is directly applicable to your review, but again, that's for your decision. But that's where that comes from.

Chair Hext: We can leave that open, I think.

Attorney Clarke: Well, I think you can leave it open then again consider impact to neighbors in the community, impact portion of-

Chair Hext: I'm sure there's ... Yeah. I'm going to question mark that and we can review that more. We did 10, right? We didn't do the-

Attorney Clarke: We said no, right?

Chair Hext: Yeah. Okay, so 11. Impact on open space and recreation. The proposed action may result in a loss of recreational opportunities or a reduction of open space resource as designated in any adopted municipal open space plan. And I don't believe that that's a designated open space.

Board Member Litten: No.

Attorney Clarke: Yeah. Correct.

Chair Hext: Now again, we could ask for that. We could ask for them to make something forever. Those are the kind of concessions that we can work through. 12. Impact on critical environmental areas. The proposed action may be located within or adjacent to a critical environmental area.

Attorney Clarke: It's not enough.

Chair Hext: So that's a no.

Attorney Clarke: That's an official designation, which it doesn't have.

Chair Hext: It's not. Okay. Impact on transportation. The proposed action may result in a change to our existing transportation systems. All right, I think that means public transportation.

Attorney Clarke: No, it could be increased traffic.

Chair Hext: Traffic. Okay. That's a Yes. A projected traffic increase may exceed capacity of existing road network. I think that would be a moderate to large impact may occur. The proposed action may result in the construction of paved parking area for 500 or more vehicles. That would be a no or small impact. The proposed action will degrade existing transit access. It's possible. The proposed action will degrade existing pedestrian or bicycle combinations. I would say that's moderate. The proposed action may alter the present pattern of movement of people or goods. Again, I think that is at least a moderate impact.

Okay. Impact on energy. The proposed action may cause an increase in the use of any form of energy. Oh, I mean, yeah, I think that's a yes. The proposed action will require a new or upgrade to an existing substation. I don't believe that's the case. No. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a commercial or industrial use. I think that's a no or small impact. The proposed action may utilize more than 2,500 megawatt hours per year of electricity.

Board Member Litten: No.

Chair Hext: How do you know that? Danny would build that?

Board Member Ramirez: That's a little city. No.

Chair Hext: The proposed action may involve heating and/or cooling of more than 1,000 square feet of building area when completed. I think that's a no. Okay. 15. Impact on noise, odor, and light. The proposed action may result in an increase in noise, odors, or outdoor lighting. I think that's a yes. The proposed action may produce sound above noise levels established by local regulation. We go by the Town of Guilderland noise ordinance. I don't think that would be necessarily an impact. It may be an impact during construction, but we have-

Commented [BDG25]: 1000 sf may be an error. One house could be 2500 to 3000 sf.

Attorney Clarke: Which would make conditions...

Chair Hext: Yeah. We could put a condition on that. The proposed action may result in blasting within 1,500 feet of any resident, hospital, school. I would hope not. The proposed action may result in routine odors for more than one hour a day. I mean, it could happen with all the construction.

Board Member Freeman: Well, machines running and everything.

Chair Hext: Say what?

Board Member Freeman:

Machines. Your construction equipment.

Attorney Clarke: You just have to consider a difference between construction and what's there - just homes. Yeah.

Chair Hext: I would say no or small.

Board Member Muhlfelder: No.

Chair Hext: The proposed action may result in light shining onto adjoining properties. I would say that's no or small impact, but we do have ordinances that prohibit light trespass. Gary could take care of that.

Board Member Litten: Well, we had a resident letter where they were saying that they would get light trespass.

Commented [BDG26]: Condition that no light trespass can occur beyond property boundaries with 0.0 lumens at property line.

Chair Hext: I remember. From spotlights or whatever.

Board Member Litten: Yeah.

Chair Hext: Yeah. And that's something that if that happens our code officer can address. Everything has to be down lit, it can't ... supposedly, can't shine onto neighbor's property in their bedrooms or anything like that. But again, no or small impact may occur. The proposed action may result in lighting creating sky globe brighter than existing area conditions.

Board Member Muhlfelder: No.

Board Member Litten: Hard to know.

