

Village of Altamont Zoning Board of Appeals
Regular Meeting
February 8, 2022

Danny Ramirez, Chairman
Kathryn Provencher, Member
Laura Murphy, Member
James Sullivan, Member
Sal Tassone, Member, Absent

Gary Goss, Building Inspector/Code Enforcer
Allyson Phillips, Village Attorney
Ginger Hannah, Secretary

Applicants: John Polk

Guests: 3

Chairman Ramirez opened the meeting at 7:01 p.m. on February 8, 2022 and welcomed everyone. He noted where the emergency exits are. He introduced himself as Danny Ramirez, Chairman of the Zoning Board, and introduced the Members of the Zoning Board as follows: Laura Murphy, Kate Provencher, and James Sullivan; as well as Village Attorney Allyson Phillips.

Note: Due to this being a Public Hearing, the following was transcribed from the meeting recording by Rev.com; reviewed by Secretary Ginger Hannah:

To open the Public Hearing, Chairman Ramirez said: I'm going to read the public notice. Notice is hereby given that the Zoning Board of Appeals of the Village of Altamont, New York will hold a public hearing pursuant to Article 355, Attachment 1 of the Zoning Law on the following proposition: Request of John Polk and Rebecca Stumpf for a Use Variance under the Zoning Law to permit the housing of six chickens on the premises for eggs for the family. Use of existing coop; no roosters will be housed on the property. Property is owned by John Polk and Rebecca Stumpf. It's located at 101 Bozenkill Road, tax map number 37.09-1-11, and it's zoned R20.

Danny Ramirez, Chairman: I have one letter from a James Vitale. I'd like to read it into the minutes and it reads as follows. Dear Ms. Hannah, My husband and I received your letter of the notice of request made by our neighbors, John Polk and Rebecca Stumpf for a variance to house chickens on their property. We are writing to you in support of their request. We are unable to attend the Zoning Board meeting, but would appreciate our support of the variance be included in consideration of the request. Thank you, Mary and Jim Vitale at 5 Indian Maiden Pass, Altamont, New York.

Danny Ramirez, Chairman: At this time. I would like to open it up for public comment. If you do so, the microphone is on.

Lois Ginsburg, Resident: Good evening. My name is Lois Ginsburg. I live at 2 Long Grass Lane, Altamont. We have a large buffer area between our property and 101 Bozenkill, and my husband and I have no problems with having the chickens being raised on that land. Thank you.

Danny Ramirez, Chairman: Thank you. I apologize, Mr. Polk, would you be so kind as to state your case?

John Polk, Applicant: Sure.

Danny Ramirez, Chairman: Thank you.

John Polk, Applicant: My name is John Polk. I live at 101 Bozenkill. My wife and I have submitted a petition to have chickens on our property as you're aware. And we would like to keep chickens to have eggs for our family. And we live on a large property. It's just about 20 acres. We have large distances between us and any of our neighbors in any direction. And so the keeping of chickens there would not impact anyone in the Village. We are on the edge of the Village. There aren't additional properties behind us that are in the Village. So again, we are at the fringes and we're on a very large piece of land. Now, in addition, our property historically has been a farm. There was a sign that would hang on the front of our property up by the road, by the mailboxes, that used to say Brookside Farm. And it was a working farm. They kept large animals there and chickens. They had horses in recent years. They've had donkeys in the past. And one of the issues that, I didn't think this was going to be a contentious discussion in any matter, but in looking through the zoning regulations, I think it's 355-29 that discusses nonconforming uses. Any building, structure, lot or use of property lawfully existing at the time of enactment or amendment of this chapter may be continued, although such building, structure, lot or use of property does not conform to the provisions. Now, our property has not always been part of the Village of Altamont. The former owners from whom we bought, their family purchased it in 1939. At that time, it was not part of the Village. I don't know the exact year it was incorporated into the Village, but I'm assuming that whenever it was, they had animals at the time. Their property was incorporated into the Village before, and so they would've been nonconforming at the time that the property came into the Village. And that nonconforming use, I understand travels with the land, not the owners, according to the bylaws. So we ask that our nonconforming use be continued and allow us to keep chickens on the property.

Danny Ramirez, Chairman: Thank you.

Kate Provencher, Board Member: Mr. Polk, may I ask you a couple questions while you're still there?

John Polk, Applicant: Yeah.

Kate Provencher, Board Member: Thanks. I was curious about, because it came up in the discussion last month, did you happen to check where your property line is?

John Polk, Applicant: We know where our property lines are.

Kate Provencher, Board Member: And your coop is on the Altamont side of the line?

John Polk, Applicant: Yes, it is.

Kate Provencher, Board Member: Okay. And there was some, do you know... Actually, because you know some of the history, I'm wondering if you are aware if there was a change in zone on that property, once it was part of Altamont.

John Polk, Applicant: That I don't know.

Kate Provencher, Board Member: Okay.

John Polk, Applicant: I would actually like to follow up on one question that you asked in our previous discussion that was not part of a public meeting. And I think in that discussion, you'd asked the Council

to look around for precedence to find out if there were other situations that could be found where non-commercial uses could be exempted from this sort of regulation. Or if there are situations where the financial hardship criteria that you had discussed at the time could be avoided. So I'm wondering if that, I don't know if I can ask questions or you just ask me questions, but any precedence that we know of?

Allyson Phillips, Village Attorney: I can answer that.

Kate Provencher, Board Member: That'd be great. Thank you, Allyson.

Allyson Phillips, Village Attorney: I did look into that and provided a memo to the Board. It's a confidential communication. So that document isn't available with the agenda materials, but I can summarize the legal research that I did and the findings that we came to. There is precedent in the case law in New York State, specifically in the Third Department, indicating that the first prong of the Use Variance test, the demonstration of failure to realize a reasonable return to dollars and cents proof, it does apply regardless if the Use Variance is being proposed for a commercial, as opposed to a non-commercial, use. And we actually did come across some case law dealing specifically with a fact scenario, similar to what we have here, where there was an application by a petitioner to use a piece of property to raise farm animals to feed his family. And it wasn't for a commercial use. It was strictly for consumption by the family.

The court said that that didn't change the test that has to be applied for a Use Variance. You still need to demonstrate through dollar and cents proof that you can't make a reasonable return from using the property for some use that's permitted by the Zoning Law. In that case, they gave examples of evidence of what the purchase price was, carrying costs, taxes, if the property was offered for sale and wasn't able to be sold for whatever reason. All of that is relevant evidence, the dollar and cents proof that you need to show to demonstrate that you can't make a reasonable return on the property by using it for a use that's permitted under the Zoning Law. And with the question of raising animals specifically, the court said the hardship required for a Use Variance - it relates to something unique about the land itself. The personal situation of the current property owner, in that case, a property owner who claimed a need to raise these farm animals to feed his family, the court deemed was irrelevant because the test focuses on the unique hardship created by the property itself. So we did come across that case law precedent that the Board had asked for, and it did support the analysis that we discussed at the last meeting that there is no distinction between a proposed commercial or residential use when it comes to applying the Use Variance test.

John Polk, Applicant: Okay. And so that's one answer. And I thank you for doing that research and I'd be interested to see it. I know it's confidential in your advice to the Board...

Allyson Phillips, Village Attorney: I can provide you a copy.

John Polk, Applicant: ... but it may be a... Yeah, I'd be interested to see that in some fashion.

Allyson Phillips, Village Attorney: Sure.

John Polk, Applicant: That I guess is one avenue for us seeking permission to have the chickens. The other avenue for us seeking permission to have the chickens is through being grandfathered in essentially. And that we did not discuss previously so that still stands as a justification for - we feel that the Board's well within its rights to make the decision to support our petition on those grounds. I mean,

certainly since the nature of what we're asking for isn't going to impact anyone in the Village and my understanding of zoning regulations and the theory of why we have zoning regulations is to prevent public nuisances and to prevent the kinds of things that one wouldn't want their neighbors to be doing as it might impact their life, liberty, and pursuit of happiness. We're not going to be affecting anybody by the owning of chickens on 20 acres of land. So I think, again, I ask the Board to approve our petition on those grounds. Shall I stay up here for more questions?

Allyson Phillips, Village Attorney: If I could, Danny, if you'll just let me address the nonconforming usage, the grandfathering issue. This isn't something that we had discussed at the last meeting. And my understanding is it's not something that the applicant had previously sought a confirmation that the use of chickens on that property is a legal preexisting nonconforming use. That is a determination for our code enforcement officer to make based on any relevant evidence that you can provide that the use was a preexisting legal nonconforming. That's not a determination that the ZBA can make unless it's on an appeal from a determination of the code enforcement officer.

John Polk, Applicant: So there's an existing coop on the property. There's horse tape surrounding our front paddock from recent horses being kept in the paddock at the front of our land. So there's plenty of evidence that's on the property to suggest that animals have been kept there in nonconforming use.

Allyson Phillips, Village Attorney: I think if you're going to seek a determination from the code enforcement officer that the use is a legal preexisting nonconforming use, and if that's your evidence, you can present it to the code enforcement officer. He would have to evaluate that, evaluate the article in our Zoning Law that governs preexisting nonconforming uses. My understanding, I'll have to go back and look at that, I'll admit I didn't review that before the meeting tonight, you're looking at whether the use was lawfully taking place or existing at the time a zoning prohibition went into effect to prohibit it. I'm not sure how that would be affected if the use was legal in Guilderland and then I'm not sure at what point in time the property was annexed into Altamont and how that, what point in time, the prohibition on farm animals came into the law as part of the Village of Altamont. So all of that would have to be reviewed to determine at what point in time the prohibition went into effect, but also some proof as to when the preexisting use was taking place.

I understand that there is remnants of barns, structures for keeping animals. I'm not sure exactly what's there that would be relevant. And I think we just have to evaluate that to determine if it does qualify as a legal nonconforming use. Because if the use had ceased for a number of years, that may prohibit you from claiming that status now, depending on the language of the law, I'd have to review it.

Also depending on the structures, if they were, I don't know what condition they're in now, but we do have provisions in the law. If a preexisting nonconforming use or structure has deteriorated to a certain extent, it loses its preexisting nonconforming status, and you're supposed to bring it into compliance with the current law. I don't know if that's applicable to this set of facts, just because I haven't looked at it through the lens of preexisting nonconforming.

John Polk, Applicant: Sure. I feel very strongly that we're talking about an issue of a huge property. We're asking to own six chickens in the middle of the property. It's not going to affect anybody in the Village.

Allyson Phillips, Village Attorney: See, this is just one thing I want to...

John Polk, Applicant: And so I feel like your approach to this is to shoot down every possibility and advise the Board that they can't make a determination in our favor.

Allyson Phillips, Village Attorney: They cannot make a determination on preexisting nonconforming use because that's not a Zoning Board of Appeals' determination. You're here on a Use Variance application. So it is two different things.

John Polk, Applicant: I'm speaking to the Zoning Board of Appeals, and I'm speaking on an issue that's 355-29. I understood that 355 was issues of the Zoning Board. Section 355 concerns zoning issues. Am I wrong about that?

Allyson Phillips, Village Attorney: Is that the section dealing with preexisting non-conforming issues?

John Polk, Applicant: Yes. 355-29.

Allyson Phillips, Village Attorney: Okay. That's a determination for the code enforcement officer. And then if you're aggrieved by the determination of the code enforcement officer, you would have the ability to appeal it to the Zoning Board of Appeals. They don't have the ability to make interpretations of the Zoning Law in the first instance, only to hear appeals from determination of the code enforcement officer. But they do have jurisdiction to review Use Variance applications. So that's what we're here for tonight, the public hearing on that application. If you want to seek a separate determination on the legal preexisting nonconforming use status, you can do that to the code enforcement officer by presenting whatever evidence you have.

John Polk, Applicant: So we need to do this as a separate thing entirely. That seems kindof ridiculous to me to, to have to do this dance, well we're here. We're all here. Mr. Ramirez, Mr. Goss have been to my property and they've seen the place where the chickens were housed. Anybody can drive down Bozenkill Road and see the horse tape, even in the winter surrounding our paddock. Now, we can have this discussion, we can have it today. If you need me to file another piece of paper to justify this so that we can dance another dance on another day, I can do that. But I'd just as soon not waste everybody's time and try and get this sorted out.

Allyson Phillips, Village Attorney: Mr. Polk, if I may. We have a law in place that has standards that govern the jurisdiction of this Board.

John Polk, Applicant: Yes.

Allyson Phillips, Village Attorney: You came here on a Use Variance application. That's what this Board is here tonight to do. You're raising the preexisting nonconforming use status...

John Polk, Applicant: Which is relevant to the issue.

Allyson Phillips, Village Attorney: ... for the first time this evening, I'm explaining to you the proper avenue under our law to get a determination on that status. I'm sorry that this Board can't make that decision tonight, but that's not within their jurisdiction to do in the first instance. We're trying to provide you with the legal avenues that you can try and legally established this use on your property. The use is prohibited under the Zoning Law, therefore you have to act within the legal remedies

available to you under the law to get an exception to that prohibition. You may not think it's a big deal, but a Use Variance is a very big deal under New York State Law.

You are asking for permission to use your property in a manner that is prohibited to every other resident in the village of Altamont. So that's why it's a high standard under the law.

John Polk, Applicant: I appreciate that.

Allyson Phillips, Village Attorney: No one is making you jump through any hoops unnecessarily. I appreciate that you may be frustrated with the process, but I think everyone's trying to help you.

John Polk, Applicant: I understand that, and I do understand very clearly why there's a high bar to prohibit various behaviors and activities in a highly dense community that may be obnoxious to neighbors and the general public. I do feel the Board is within its rights to consider whether the use that we're proposing does pose any kind of problem for our neighbors and community. And I believe that is within the Board's realm to consider here tonight.

John Polk, Applicant: My understanding of our previous conversation was that the, and I may be wrong about this, but the tests that you had proposed or you'd described, my understanding was that those tests were recommendations to the Board that they needed to, they can take into account. But that the Board can consider whether they can consider exceptions to that when necessary. I certainly understand why nonconforming uses are restricted, but I think that the Board can reasonably consider whether this use is one that should be restricted under the circumstances.

Allyson Phillips, Village Attorney: Just to clarify for the Board, the use tests that we discussed are not my recommendations.

Danny Ramirez, Chairman: No, that's by case law. Yeah.

Allyson Phillips, Village Attorney: They're legal requirements under your local law and under New York State Law.

Danny Ramirez, Chairman: I understand.

John Polk, Applicant: I misunderstood.

Kate Provencher, Board Member: Yeah. I just want to say that I think that there are a couple of things here that are really important, and one is you are looking at how you can have chickens and so that the way that you came before us was with getting a Use Variance without perhaps knowing that the 355-29 might also...

John Polk, Applicant: That is true.

Kate Provencher, Board Member: ... apply in this case. And so, unfortunately, when we do a public hearing, we have to do it around what we've publicized.

John Polk, Applicant: Okay.

Kate Provencher, Board Member: And so I think that that's part of what Allyson said.

John Polk, Applicant: I think that had we known that we needed... Frankly, we didn't think that this was going to be an issue.

Kate Provencher, Board Member: Yes, of course.

John Polk, Applicant: Yes, so had we known, yes, we would've combed through every regulation in the book to try and figure out what worked and we would've put it all together in one package at one time. So if I need to submit this as a separate document to pay another \$50 fee to get it in front of you then...

Kate Provencher, Board Member: Well, that would be something else that the Board can consider, I think. But part of what our council is saying is that we can't rule on something or you can't appeal something until our code enforcement officer has made a decision.

John Polk, Applicant: Okay.

Kate Provencher, Board Member: And so that whole piece about nonconforming use has to go back to Mr. Goss.

John Polk, Applicant: Okay.

Kate Provencher, Board Member: Before it can come to us.

John Polk, Applicant: Okay.

Kate Provencher, Board Member: It would have been really helpful if anybody had been able to say, there's three things here we can consider about going, but this is really...

John Polk, Applicant: Okay. I appreciate that. And I appreciate your consideration of this, and I apologize for my frustration in the process.

Kate Provencher, Board Member: No, that's part of what...

John Polk, Applicant: I'm not certain how everything works here. And so I appreciate your time and consideration of all of this. Could I ask Mr. Goss whether he has seen the chicken coop on our property and he could make a determination about whether there was a chicken coop on our property?

Kate Provencher, Board Member: I think you can certainly ask him, and I will say based on my understanding about being on the Board is that we still wouldn't be able to consider it tonight because we would have to publicize it. The other thing is, and I'm so sorry..

John Polk, Applicant: That's okay.

Allyson Phillips, Village Attorney: Let me just clarify this. If you have evidence of a preexisting legal nonconforming use that there were chickens, as you want to keep right now on the property at the time the prohibition in the Village of Altamont law went into effect, and you can present that to the code

enforcement officer, he may make a determination that it does qualify as a preexisting nonconforming use. And in that event, you wouldn't be appealing anything to the ZBA.

John Polk, Applicant: Correct.

Allyson Phillips, Village Attorney: But the fact of the matter is you haven't made that request for a formal interpretation from the code enforcement officer. We'd appreciate you putting together any evidence that you have to create a record for that determination.

John Polk, Applicant: Very good.

Allyson Phillips, Village Attorney: We would need to look on the village's end to try and figure out exactly when that prohibition went into place to try and match it up with whatever evidence you can put together.

John Polk, Applicant: Okay.

Allyson Phillips, Village Attorney: Because that creates a rational basis for determination that you'll have to make whether it does or does not qualify as a legal nonconforming use under our law. That request hasn't been made, the focus has not been on that aspect of our zoning code. You did make an application for a Use Variance. So that's what's been noticed for the public hearing here tonight.

We did talk about if you want to withdraw that application, you chose not to. So that's why we're here tonight having the public hearing. But I just want you to understand, if you can put together that evidence then it's the code enforcement officer, if it's clear to him that it does qualify as a legal nonconforming use, then you wouldn't have to appeal that to the ZBA.

John Polk, Applicant: Very good. And then I could continue to use, I could get chickens and go ahead.

Allyson Phillips, Village Attorney: Well, it would depend on what the...

John Polk, Applicant: Well, on his determination, I understand.

Allyson Phillips, Village Attorney: Correct.

John Polk, Applicant: Okay.

Danny Ramirez, Chairman: Now, based on that, because Altamont took over that section called the Village a number of years ago, he would have to do some research with the Town of Guilderland.

Allyson Phillips, Village Attorney: Right.

Danny Ramirez, Chairman: To see if that property had that provision in nonconforming use.

John Polk, Applicant: Okay.

John Polk, Applicant: So, do we know when the village...

Kate Provencher, Board Member: I appreciate Allyson, what you've been saying, but the other piece is what the zoning was at that time. Because depending upon what the zone of the property was at the time, it might not have been a nonconforming use.

Danny Ramirez, Chairman: That's what I'm saying. He's got to do that research with Guilderland.

Kate Provencher, Board Member: Exactly. But it's not just about whether chickens were allowed in Guilderland, it's about what the zone was at the time. Because there were, and that's why I asked the question about, do you know what the zoning was at the time that it changed. Because that affects what you're able to do, because as you've said, that property has been known for having large animals on it. And so it is curious about when that zone changed.

John Polk, Applicant: Sure. Okay. Does anybody know when they took over the property?

Allyson Phillips, Village Attorney: I think we'd have to research that.

John Polk, Applicant: And is that something that can be done here or I have to go to Guilderland for that? I don't know where the property records are. Are they kept in the Village? Are they kept in the County?

Danny Ramirez, Chairman: Let me ask. Ginger, would you know probably just before your time, when the Village took over that section.

Ginger Hannah, Secretary: I have no idea. And a lot of the records got burned up in the fire.

James Sullivan, Board Member: The Enterprise might be a good source.

Allyson Phillips, Village Attorney: Was this the annexation? It just happened within the past 15 years.

Kate Provencher, Board Member: I'm not positive about that.

Allyson Phillips, Village Attorney: Not... Okay.

Kate Provencher, Board Member: I'm not positive if that piece of property was part of that annexation or if it happened before then, but that would be...

Allyson Phillips, Village Attorney: Because that was like a new subdivision.

Kate Provencher, Board Member: It was.

John Polk, Applicant: Long Grass was new.

Allyson Phillips, Village Attorney: Yeah.

John Polk, Applicant: That property was part of my property, what historically had been tied to the house where we live. There's a little donut hole property of the little white house on Bozenkill that is not in Altamont. But that also was part of our property historically.

And my understanding was that our property was annexed into Altamont around the time that one of the Dubrins became mayor. I don't know when that was.

Kate Provencher, Board Member: So that would've been a lot longer ago than that subdivision.

Allyson Phillips, Village Attorney: So an older annexation?

Kate Provencher, Board Member: Yeah.

Allyson Phillips, Village Attorney: Okay.

Lois Ginsburg, Resident: And it was probably Pangburn Road at the time, not Bozenkill. So if you're looking for something, look under Pangburn Road.

John Polk, Applicant: Very good. Thank you.

Allyson Phillips, Village Attorney: And can I just ask, when you purchased the property, was it being used?

John Polk, Applicant: Was it being used, there were people living there.

Allyson Phillips, Village Attorney: No, was it being used for farm animals?

John Polk, Applicant: There was horse tape around the front paddock. We spoke with the former owners and there had been horses there recently. I don't know how recently. There's a chicken coop in the back. There were a couple of them actually. We did take one of them down.

Allyson Phillips, Village Attorney: If you could reach out to them and any evidence you can present as to when the last time people actually had farm animals on the property, that would be relevant.

John Polk, Applicant: Sure. I believe the horses were Mr. Pratt's from down the road.

Kate Provencher, Board Member: Ah. That's really recent.

John Polk, Applicant: So yeah. I mean, for some of the folks on Long Grass do you remember when the horses were there?

Lois Ginsburg, Resident: The horse I can remember. That little white house, many years ago, there was a horse corral and horses buildings. I think a big red barn was one of the buildings that housed the horses even in the (inaudible) area, right next to Long Grass, where they kept horses.

John Polk, Applicant: Okay. I had understood the horses were Mr. Pratt's rather than the ones from the white house, but...

Lois Ginsburg, Resident: George Pratt occasionally would bring his horses down to that, where your road is right now to the right of your road.

John Polk, Applicant: Yep. That's the paddock there. Yep.

Lois Ginsburg: At one time, George would bring his horses down to feed in that paddock. I don't know, I think that belonged to your property.

John Polk, Applicant: It does. Yeah.

Lois Ginsburg: And originally the five houses on Bozenkill and the five on Long Grass were all woods.

Kate Provencher, Board Member: Yeah. That's not that long ago either.

Lois Ginsburg: No. I think when the houses were built on Bozenkill and Long Grass that the next section was annexed to the Village and (inaudible) forever wild. (inaudible)

John Polk, Applicant: Thank you.

Kate Provencher, Board Member: So that'll be really important information.

John Polk, Applicant: Sure.

Danny Ramirez, Chairman: Any questions for Mr. Polk? Any other questions?

James Sullivan, Board Member: Not for Mr. Polk, but to just go back to something that Allyson had said.

Allyson Phillips, Village Attorney: Sure.

James Sullivan, Board Member: The recommendations and your explanation of the tests and the criteria, are we legally bound to follow your explanation? Or can we interpret it ourselves? And your explanation would say that if we interpret it one way, it would most likely get overturned in court if it went there.

Allyson Phillips, Village Attorney: Well, okay. My explanation, I mean, you can read the Use Variance test yourself in the statute. The Board obviously is the decision maker. I'm telling you the applicable legal standard that guides your review of this application. If you don't act in accordance with applicable law or your decision is arbitrary and capricious, in that you disregard the applicable legal standard that is subject to annulment if it was challenged. I can't give you legal advice that you can... It's up to the Board what you choose to do with that.

James Sullivan, Board Member: Thank you.

Danny Ramirez, Chairman: Anyone else? Okay. At this point, I'll make a motion to close the public hearing.

Kate Provencher, Board Member: So do we, I'm sorry.

Danny Ramirez, Chairman: Go ahead.

Kate Provencher, Board Member: Do we have to continue this until next time? Because we haven't heard from the Planning Board.

Allyson Phillips, Village Attorney: You do not have to leave the public hearing open. But you can't make a decision on the application until you hear back from the Albany County Planning Board or 30 days has passed from the date of their referral. 30 days has not passed. And the County Planning Board hasn't had their February meeting yet.

And just to explain to everyone the reason we did the referral to the Albany County Planning Board is because this is a Use Variance application and it's a required referral under the New York General Municipal Law. So you can close the public hearing, the Board just can't make a formal decision on the application yet.

Kate Provencher, Board Member: So, one of the reasons I was asking that Danny, was because sometimes we do continue a public hearing until we meet again. But I'm also remembering that the applicant can continue to offer information or questions. So, even if we close the public hearing, it doesn't prevent him from doing that. So I was just thinking out loud about that.

Danny Ramirez, Chairman: Not a problem. Okay.

John Polk, Applicant: Thank you very much.

Danny Ramirez, Chairman: Is there a motion to close the public hearing?

Laura Murphy, Board Member made a motion to close the public hearing. James Sullivan, Board Member seconded. **All in favor.**

Danny Ramirez, Chairman: So now the application to the Albany County Planning was made when, do you know? You have that date?

Allyson Phillips, Village Attorney: I think it was January 27th.

Danny Ramirez, Chairman: The reason I'm asking that, at the next meeting it'll be 30 days past, if anything has to be done. Okay. Not that it was filed yesterday, the day might conflict, if it was just after our meeting.

Ginger Hannah, Secretary: The next meeting of the Albany County Planning Board will be on February 17.

Allyson Phillips, Village Attorney: So you should have that decision back.

Danny Ramirez, Chairman: So we should have that. Okay. Thank you.

Kate Provencher, Board Member: So we will be back here on March 8th to finish the consideration of use.

Danny Ramirez, Chairman: Of the Use Variance. That is correct. In the interim.. we get a hold of you (inaudible) to make a decision.

So we have some minutes that I hope everybody looked over - September 28th, 2020. Any changes, any amendments?

Kate Provencher, Board Member: So I'll say again that I wasn't at the September 28th meeting, so I'm not able to review and approve those.

Danny Ramirez, Chairman: Well, let me confirm on that because I know you brought that up last time and to approve the minutes, Allyson, if she wasn't present at a meeting, it's still okay if she approves the minutes as posted?

Allyson Phillips, Village Attorney: It's a good question. I think it's...

James Sullivan, Board Member: That will mean I will have to abstain also because I wasn't at the meeting.

Allyson Phillips, Village Attorney: And that meeting was in person - it wasn't recorded?

Danny Ramirez, Chairman: This was recorded. This is September 28th, 2020.

Allyson Phillips, Village Attorney: Okay.

Danny Ramirez, Chairman: Zoom did the recording.

Allyson Phillips, Village Attorney: Okay. I think if you guys had reviewed the recording, you could vote to say that the minutes conformed to substantially what was discussed at the meeting. But I don't think either of you have done that. I think I would recommend that you adjourn until the next meeting and if the board members who weren't present could review that tape.

Kate Provencher, Board Member: Okay.

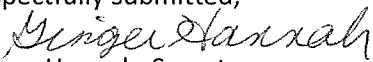
Danny Ramirez, Chairman: Okay. Thank you. Okay.

Kate Provencher, Board Member: I did think of that. Listening to the recording. Thank you. I am prepared to make a motion to approve the minutes from January 11th '22. I make that motion. Motion seconded by James Sullivan, Board Member. **All in favor.**

Danny Ramirez, Chairman: Is there any old business? None. Can I have a motion to adjourn?

James Sullivan, Board Member made a motion to adjourn, seconded by Kate Provencher. All in favor. Meeting adjourned at 7:40 pm.

Respectfully submitted,


Ginger Hannah, Secretary

Transcript prepared by Rev.com and reviewed by Ginger Hannah