

Village of Altamont Zoning Board of Appeals  
Regular Meeting  
March 28, 2023

Deb Hext, Chairperson  
Danny Ramirez, Member  
Barbara Muhlfelder, Member  
Simon Litten, Member  
Robert Freeman, Member  
Sal Tassone, Member  
Laura Murphy, Member (absent)  
James Sullivan, Member / Alternate  
Andrea Witham / Alternate

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

Applicant:  
Troy Miller  
Stephen Walrath, Surveyor  
Rolando Andres, Project Manager

Guests: 6

Chairperson Hext opened the meeting at 7:02 p.m. and welcomed everyone to the Village of Altamont Zoning Board of Appeals meeting. She stated that the meeting will be video and audio recorded. She introduced herself as Deb Hext, Chair of the Zoning Board of Appeals and asked the Board Members to introduce themselves. They did as follows: Danny Ramirez, Sal Tassone, Andrea Witham, Simon Litten, Bob Freeman and Barbara Muhlfelder. Chair Hext said we also have James Sullivan, Alternate; Gary Goss, our Building Inspector; Ginger Hannah, Secretary; Allyson Phillips, Village Counsel; from DPW Jeff Moller and Larry Adams and Fire Chief Paul Miller.

Chair Hext stated that this meeting is not a public hearing, so there will not be an opportunity for the public to speak, though if anyone has any pertinent questions, she might allow them. The first item on our agenda is the review of Troy Miller's area variance request for subdivision of property at tax map 37.14-3-6.1. She asked if everybody had a chance to review the variance and stated it could be considered a significant variance. They're asking to take a 30 foot entranceway driveway and take it down into 16.2 or 16.9 feet.

A lengthy discussion followed between the Zoning Board of Appeals Chair, Board Members, the Village Attorney, the Applicant Troy Miller and Steve Walrath, Land Surveyor. Items discussed included the following:

Distance to Adjoining Properties: Chair Hext: How close to the property lines are you going to be with that driveway that's going to serve four homes? Steve Walrath: If it was 16 feet wide, it would be 22 feet on each side from the edge of the driveway to the adjoining property lines. If they don't get the variances, there's over 60 feet of width. The engineers did say that it is a significant variance being requested, going down 15 feet basically.

Single Driveway Limit: The common driveway limits it just to four houses coming out on Schoharie Plank Road. Four homes is the limit of our code when it's a single driveway servicing. The code says it has to be 30 feet. So if the variance isn't granted, that would eliminate two lots - there could be two lots with 30 feet wide.

Frontage on Public Highway: The applicant can't do four lots because each lot has to have frontage on a public highway. That's why they split the 64 feet into four, so each has a little over 16 feet of frontage.

Subdividing Lots: If Applicant wanted to subdivide the lots in the future, they would have to come back before the ZBA. Troy doesn't foresee any further subdivision of those lots.

Sidewalks: There's been a lot of concerns about pedestrian traffic on Schoharie Plank Road - Troy said they could put money into a sidewalk escrow fund so the Village could put in sidewalks along Schoharie Plank Road. The sidewalk could be on either side of the road; south side would be easier, where there are only a couple driveways.

Driveway Width: Steve Walrath said the driveway can be designed for any width to meet the fire requirements, whether it's 12, 15, 16, or 18 feet - whatever would satisfy the fire department and the Village designated engineer that all comes in the site plan review, which doesn't have anything to do with the variances.

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Variances and SEQRA: Village Attorney Phillips said the width of the driveway absolutely has something to do with the variances. We have to determine if it meets the balancing analysis for the area variance, and before we can grant any area variances, we have to complete SEQRA. So all the information that the engineers are asking for - we have to find a rational basis in the record to conclude there's enough information for a negative declaration (neg dec) that it won't have adverse impacts. We can't determine to grant an area variance to allow four lots to access the property through a 16 foot driveway, which is what you're showing on the plans, leaving all these details up to some further review - we can't do that under the law. You don't need to complete SEQRA to deny an application for a variance, but you do need to complete SEQRA before you can approve a variance. I understand that the applicant doesn't want to put a lot of money into detailed engineering if it's not going to get the variances. But we can't segment out different components of the application and just look at the area variances without considering the potential environmental impacts as a whole. If this is all the information that's going to be provided, then we have a map that shows a 16 foot wide driveway. So we have to consider the variance application based on the information that you're providing in the record. We have an application in front of us for a variance to allow access for four lots with 16 feet of frontage each; that the frontage is going to be over a single 16 foot wide shared driveway. The Board is going to consider how you access those lots before they approve a variance to allow those keyhole lots.

Steve Walrath: I'm not looking for an official approval. I'm looking for a conditional approval approving the subdivision.

Village Attorney Phillips: That's an approval with conditions and we cannot give an approval until SEQRA is done. That's the procedure. The public hearing is required for a variance. We're going to hear comments and we have comments from our engineer. We're going to have to consider this when it comes time to make a SEQRA determination before we could grant the variances.

Troy Miller: Typically you don't even have the TDE for the variance.

Village Attorney Phillips: We have a law that allows us to retain a consultant. You've put before us a major subdivision application for four area variances and lot line adjustments. The Board has already made a determination it needs the assistance of a technical consultant. They've provided very preliminary comments, which does not require an in-depth design; it requires simple responses. If you can provide some additional information, it may help you establish a better record that would support a neg dec in order to be able to make a determination approving a variance. That's up to you. If you choose not to put any more information, the Board can make a rational determination as to whether or not it has enough information to be able to make that decision. That's all they can do. I did have a conversation with George Slingerlands (Troy's Attorney) about it and I think he understood and we agreed on this point. It's up to you how much detail you want to provide or what information you want to give this Board to be able to make their decision.

Western Ave Entrance: Possibility of not having a road go into the four lots and using the Western Avenue entrance. If we passed the variances, is that a final decision on that? Steve Walrath: No. The

other option would be to put a public highway through there - a road with a cul-de-sac that's going to be a Village highway dedicated to the Village and then the Village is going to have to maintain that.

Village Attorney Phillips said they raised that at the last meeting. You can put a road in, but it doesn't make it a public highway. It would be a private road. She said I just want everyone to understand the Village does not have to accept dedication of any roads to make it a Village road. If the applicant wants to put in a through road and it's not shown on the Village's official map, or the Village doesn't have an official map, there are provisions under the law where they can have it approved on a subdivision plat. They can seek a variance. There are provisions under New York State Village law that provide for that. But the alternative is not give us this or we build a road that the Village has to accept because we'll dedicate it. Because I don't think that's accurate. I talked to George about that. I think it's a legal question. But I don't want that to be a premise that we move forward based on that assumption because I don't know that that's accurate.

Frontage on Public Highway: Steve Walrath: It would be like Long Grass Rd/Bozenkill Rd. – there are five houses there. They have a strip of land that goes 15 feet wide from each of those lots all the way out to Bozenkill and that's where they get their 15 feet of frontage, which is the same type of thing that we're proposing here. Everybody has frontage on a public highway. They have cross easements and they'll have a maintenance agreement so the driveway gets taken care of. That subdivision was started in 2012 through the town of Guilderland – they were requiring just 15 feet, which is what the state law requirement was then. And I think they've gone to like 20 feet now. The length of that driveway from Bozenkill to the furthest back compared to this project is an estimated 1200 - 1500 feet. This project, from Schoharie Plank Road to the back of the front properties is about 200 feet, and that's where they all split off.

Length of the Driveway: Chair Hext: What would be the difference? And I'm not talking public highway, I'm talking something similar to Long Grass Lane coming from Western Avenue to service all of the homes - would that road be long enough if we did it that way and did not go in on Schoharie Plank Road?

Steve Walrath: The biggest concern is the length of the driveway going in. And then also if it's over a certain length we might have to put in hydrants and whatnot along the way, which would involve a water main. And I think that would get turned over to the Village - it would be part of the water system. This would have to be probably like a six inch line with hydrants along the way. And then the laterals going off to it.

Chair Hext: What is it, Paul? 200 feet? 400? There is a hydrant right almost where that entrance on is going to be on Western. Steve Walrath: There's one on the other side of Western Avenue here and then there's one here on Schoharie Plank Road just in front of the Johnson's house.

Driveway Dimensions per Fire Code – Minimum width 20 feet: Code Enforcer Gary Goss: For the driveway dimensions, there are very specific references in the fire code - they call out the dimensions for that and how the driveways are designed. For the record, it's the 2020 New York State Fire Code Section 503.3.1 under Dimensions. I can give everyone a copy. Briefly, it says the fire apparatus access road should have unobstructed width of not less than 20 feet exclusive of shoulders except for approved security gates. You guys aren't proposing anything like that. There's also a vertical height clearance of 13 feet six inches so the ladder trucks won't get caught on the wires. For any driveways that are over 150 feet in length, appendix D calls for very specific turnaround designs if they're required by the fire chief – like a cul-de-sac.

Steve Walrath: Sometimes they just put like a little bump out along the road and every certain feet, I'm not sure how far it is, but then that way they can still maintain the two-way traffic if somebody has to pull over on the driveway while the fire truck's going by.

Fire Chief Miller: A lot of the questions that we've already talked about have been answered. We talked about the driveway width, and when they get to the design phase, we'll go over it again. So I have no problem with it at this time.

Other Concerns to work on before Public Hearing:

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Lighting: Board Member Tassone: Is there going to be enough lighting in that development? Steve Walrath: It would just be private individual lights. There's not going to be street lights or anything like that. I would assume somebody would want lights along the side of the driveway or close to the house.

Chair Hext: Street lights - that's a good point because, if you go around the Village, it seems like at any "intersection" there is a street light so what would mark that driveway? Would it just be a dark road going in there?

Steve Walrath: Are there are street lights on Schoharie Plank Road?

Public: Yes. Two or three.

Different Plan – Through Street: Chair Hext: You mentioned earlier that if you didn't get the variance, then you'd have to make a different plan. So can you sketch a different plan without going through an extensive engineering expense?

Steve Walrath: I've looked at it as far as running a through street maybe with a cul-de-sac off it or something and come up with 24, 25 houses and it all conforms to the current zoning. It wouldn't require any variances. And Schoharie Plank Road - that's a substandard road that could be brought up to current specs. That's mitigation in the design process. We're not there yet. We're trying to figure out which way we're going here because this is what we submitted in September and we had a lengthy discussion on it. And you passed a motion approving the concept. The Village at that time wasn't interested in having to maintain a public road.

Two Separate Private Areas: Troy Miller: The more people who share something, the more problems there are. This whole project is naturally subdivided by trees and bushes. The four that are in the back are completely separate from the ones in the front. The back lots ultimately are set up for me and my three kids. So from a privacy standpoint, I like the project better having two separate private areas. As soon as we go in with one long road, you'd have to do clearing. So the lots will get changed in a way and you lose the privacy of the back from the front. So just taking me out of it, I think they're more desirable to have privacy in that back section. That's ultimately why I'm trying to maintain it. Seems like I'm a shared driveway developer because it's the only stuff I've ever done. I did one in Guilderland and I did one here. You know, obviously they opened themselves up to some people not wanting to buy property that has a shared driveway, but for the most part we haven't had any issues. It's all in the deed. It's written in black and white, who takes care of it, that type of stuff. But I'd say that the real reason from a project perspective is to keep it two separate private areas. That back area is basically treed in on all sides.

Vegetation / Buffer or No-Cut Zone: Chair Hext: If this variance went through and if that common driveway accessed those four lots, you would provide any type of vegetation or protection because you want the privacy of those four lots for you and your three kids. Well, those four lots are affecting the homes that are already there. So they're basically saying the same thing you're saying - we're going from having no one back there to having four homes or 11 homes back there. So part of going forward, what I would want to see is mitigation that they're not even going to know your houses are back there. There'll

be enough tree lines or enough shrubbery - kind of like you have where your house is now. I'd never know your house is there.

Troy Miller: I put buffer zones in.

Steve Walrath: We could certainly do a 25 foot wide strip along there, just like a no cut zone with conservation area where it just grows up and nobody touches it.

Chair Hext: You have to be careful with that though because New York state law says you can't have grass over or two feet.

Steve Walrath: I'm talking about after the grass grows and then the trees and everything take root and then eventually it grows up and becomes mature.

Maintenance of the common driveway and Water Runoff: Board Member Ramirez: You need to provide information so the Village is aware that it's going to be maintained and how. And for water runoff: Having a retention area on each property for the water runoff and sump pump collection, storm drains, even along that driveway. Not that it's just going to go into a swell or an area where it might affect the basements of the adjacent homes.

Steve Walrath: If the Zoning Board doesn't grant the variances, then we have to do a different design and that would eliminate the common driveway, the driveway maintenance agreements, the easements, etc. If the variances are approved, that will come to you and TDE review. The lawyers will review all the language for the cross easements and the driveway maintenance agreements and it would be in the deeds as the lots get sold. But a lot of that hinges on getting the conditional variance so we can proceed to do that design.

Mitigating impact on neighbors: Chair Hext: I would like to see if there's any other way to access - I've literally been tearing through our code and trying to find ways to mitigate any impact on neighbors. A lot of our code does say to narrow streets to have less of an impact on neighboring properties. Obviously trees and shrubs and Troy's proposing giving an escrow for a sidewalk. So mitigating things, anything that we can look at here?

Water Service: Board Member Freeman: On the water end of it. The way they have this going in here, you want four houses here, the water's going to go in to the dead end. And then the same on the other side. Would it be a good suggestion to loop it? At least connect mains from here to here. Steve Walrath: These are going to be individual services.

Mailboxes / Getting Addresses: Board Member Litten: Where are you going to put the mailboxes?

Steve Walrath: It would be four separate boxes. Chair Hext: Make sure you get addresses. Steve Walrath: Yes, we need to get addresses before we file the map.

Groundwater testing: Board Member Muhlfelder: Were test kits done regarding the groundwater? Steve Walrath: No. That hasn't been done yet because we're trying to get through the variance here before we do more engineering work, because if we don't get the variances, we have to do something else.

Wetlands and Flooding: Chair Hext: I know one thing that the residents are afraid of is wetlands and intrusion from any water because of the new homes - I've heard that that has flooded before - that road and the properties. So anything you can give that gives them any type of peace of mind that says this isn't going to happen and here's why. And you can probably do that and guarantee that if that happens, you'll make it right. Anything that helps us help them and will allow you to go forward.

B&L Comments: Village Attorney Phillips: Did the Board already ask them to provide responses to Brad at Barton and Loguidice's (B&L's) comments? Chair Hext: Yes. Responses to their questions or suggestions would help with the SEQRA determination also. Village Attorney Phillips said the comments were forwarded to the Applicant. Chair Hext asked Ginger to send them to the Board members as well.

Coordinated Review: Village Attorney Phillips: We did adopt a resolution to do a coordinated review. I talked to George about your providing a service list. It's in the applicant's interest to have every agency that he's going to need to get an approval from included in the coordinated review, so SEQRA gets done once and everyone's bound by this Board's determination of significance. If this Board issues a neg dec, if he needs a permit from the Department of Health or the DEC or anyone else and they're included in the coordinated review, they're bound by that negative declaration.

We haven't sent the notice out yet on the Coordinated Review because we asked the applicant to identify the agencies that it should go to. For a coordinated review, you've got to send the notice and let 30 days pass before all the agencies get a chance to object to this Board acting as lead agency before you can even make the determination of significance. Obviously there's a lot of public interest in this application.

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There's been concerns already voiced to the Board about potential impacts. So the Board would want to be sure that it has enough information in the record to be able to make those conclusions that there won't be a significant adverse impact on surface water resources, on visual, on archeological – you have to go through every single thing. The applicant can choose or not choose to put in whatever information it wants, and you've got to make the decision based on what you have in the record.

Public Hearing / SEQRA: We would like the public's input - holding a public hearing to hear input from neighbors and anyone else in the Village that has any input regarding the variance. And at that point we could also do the SEQRA review.

Village Attorney Phillips: You're required to have a public hearing before you grant the variances. Under New York state law, for a subdivision application, you have to have a public hearing after you have a complete application, which the subdivision statute defines as having a SEQRA determination of significance. So we would either have to leave the public hearing open or, or re-notice it for the subdivision application after a SEQRA determination of significance has been made. SEQRA gets done once. So the public hearing that comes after SEQRA on the subdivision application is just for the subdivision. It comes after the determination of significance has been made.

I think it makes sense to open this up for public hearing, understanding that I think there's a middle ground here. I encourage you to look at the comments that have already been provided. See if you can provide some additional information. A written response explaining that level of detail can be provided like maybe you don't want to provide a site plan, but maybe you can propose:

- what the setbacks from the property lines are going to be or what the minimum setback you would design it to be if this configuration went forward
- an explanation as to why you have it 16 feet and B&L is saying 20 feet
- provide copies of the road use agreements you have for the other development that has this exact same layout so we can see what it would look like

I think there's information that you can provide to this Board that does not require an expensive engineering process to be able to give the Board and the residents some information, to have some comfort that we can make the determination that it won't result in adverse impacts, and that we have enough information to do the balancing analysis for the area variance applications. Provide whatever additional information and detail you can provide because it's just going to provide a better record for you, for the Board and for everyone going forward.

Steve Walrath: I will talk with Brad (B&L) because he's the one that has all the comments and see if he and I can break it down to what he thinks you might need for the variance and what we can push off to the planning part of it. Village Attorney Phillips: What we need for the variance and what we need for SEQRA.

Chair Hext: So could I have a motion to schedule a public hearing to review the variance request of the applicant Troy Miller on April 25, 2023 at 7:00 pm. Board Member Ramirez made the motion. Board Member Freeman seconded. **Roll call: All in favor.**

Chair Hext: Any other business? None noted.

Any questions, feel free to email. The residents know if you have any questions, you can call me, email me, do whatever - we're going to work together, all of us to make this right.

Chair Hext: Minutes - did everybody review the minutes of January 24th? One clarification – HDPE = high density polyethylene piping.

Secretary Hannah: Page 3 – Chair Hext: Troy – you had agreed that all the construction vehicles were going to enter and exit from Western, right? Troy Miller: Yes.

Chair Hext: Could I have a motion to approve the minutes of January 24, 2023 as corrected. Board Member Muhlfelder made the motion. Board Member Ramirez seconded. **Roll call: All in favor, except Board Member Litten abstained – he was absent from that meeting.**

Chair Hext: Before we adjourn, I would like to thank Sal Tassone - this his last night. Now that he's retired, he's going to have a life. And also Laura Murphy, our other Board member who couldn't be here tonight - she's decided not to renew. So we have James Sullivan and Andrea Witham, current alternates – will now be full voting members – welcome! Sal, thank you for your service. I really appreciate it.

Board Member Muhlfelder: And all your knowledge. Thank you.

Chair Hext: Could I have a motion to adjourn? Board Member Muhlfelder made the motion. Board Member Ramirez seconded. **Roll call: All in favor.**

Respectfully submitted,



Ginger Hannah,

ZBA Secretary

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