

Village of Altamont Zoning Board of Appeals
Regular Meeting
May 23, 2023

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

Gary Goss, Building Inspector/Code Enforcer
Attorney Clarke for Village
Ginger Hannah, Secretary
Tresa Matulewicz, Board Liaison
Jeff Moller, DPW Superintendent
Paul Miller, Fire Chief
Brad Grant, Village Engineer, B&L
Applicants: Mark Fanuele
Lauren Simon/Sunoco
Troy Miller
Mr. Walrath, Surveyor
Rolando Andres, Project Manager

Guests: 31

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 and back of me and straight out. Today is Tuesday, May 23rd 2023 at 7:00 PM. For the record, both the audio and video portions of this meeting are being recorded. My name is Chair Hext. I'm the ZBA Chair. At this time, I would like every Board member to please introduce themselves, starting with Danny. The Board Members introduced themselves as follows: Danny Ramirez, Barbara Muhlfelder, Simon Litten, James Sullivan, Bob Freeman. Also representing the Village: Ginger Hannah, ZBA Secretary and Tresa Matulewicz, our Board Liaison. We are awaiting one more Board member, Andrea Witham, and our building inspector, Gary Goss, who should be here shortly.

There are a few items on tonight's agenda, two of which are public hearings. If you wish to speak at either of them, please sign up. That's so that if we have a number of people and it's getting to the point where I feel we have to time it, we will. I don't want to do that. I want to give everyone a chance to speak. And I ask that when you do get up to speak, you speak regarding the hearing that you're here for. The first hearing is not for Troy's subdivision, so don't get up and speak to the first hearing if that's not what you're speaking to, if that makes sense. Okay. With that, we'll start on the first item of discussion tonight, which is to review the application for a sign permit for Sunoco gas station at 200 Main Street. Do we have a representative for Sunoco here?

Lauren Simons, Representative for Sunoco: Yes.

Chair Hext: Come on up to the microphone. State your name.

Lauren Simons: My name is Lauren Simons and I'm representing GRJH for the Sunoco on 200 Main Street.

Chair Hext: Could you give a brief discussion of what you plan on doing? I know we have illustrations. Do you have anything that you could put up on the Board so that the...

Lauren Simons: I do. I brought extra copies. Essentially, Sunoco is re-imaging their whole image. They're starting with a few stations and we were picked as one of the stations in a small town to implement the re-imaging. It's not a tremendous change from what we have. It's just cleaning things up

and making things look tidier for the town and to represent Sunoco. These aren't terribly large, but... do you want me to put them on the Board or just hold them up?

Chair Hext: No one's going to be able to see them on the Board, but... Yeah, just briefly...

Lauren Simons: Or I can circulate it.

Chair Hext: Yeah, you can do that. Let people look at them.

Lauren Simons: Sure. This is a copy of the sign that we proposed--I was just going to give the rest of it to circulate. Because we also have some changes to the canopy as well.

Chair Hext: So basically you plan on changing the color of the face of the sign. The pole, right?

Lauren Simons: The pole, yes.

Chair Hext: Changing that from blue to white, and also adding the LED gas prices?

Lauren Simons: The LED gas prices, the sign itself, where the pricing is, will actually be smaller than what it is now. Right now it illuminates 60 inches. We're going to bring it down to 19 inches to make it less obtrusive.

Chair Hext: The sign face itself?

Lauren Simons: The price sign. The illuminated portion of it. Yes. And right now we propose a 60 watt bulb, but if you feel that that's too bright, we can also put a 40 watt bulb in just to accommodate neighbors and other businesses. The canopy itself is going to be refreshed with a stripe. The Sunoco will be on the two short sides and then illuminated Sunoco on the long side. And that's essentially the gist of what we're doing to change, just to clean things up and get rid of the old sign that's been there for many years.

Chair Hext: So the sign right now is blue, so if you're changing it to white, in my opinion, the brightness of that is going to be somewhat noticeable. My concern is coming into the Village, the first thing you see now is the Sunoco sign. If you make that white, I worry about light trespass. I worry about blindness coming in. I worry about coming down the hill and seeing that bright white light. I also worry about the character of the Village, and I understand Sunoco is changing their branding, but we have to consider the character of the Village. And saying that, to use Stewart's as an example, we did not allow Stewart's to put vinyl or lit anything on their canopy. We did not allow them to do a tall sign. That's why they have that nice little garden area. I like the fact that you're cleaning that whole property up. I understand you're going to paint it, there's going to be new pumps...

Lauren Simons: New pumps, and we're completely renovating inside and out.

Chair Hext: Okay. All right. So there are my concerns. I just don't want to get into a situation where we look like Route 9 or we look like Route 20. We have a character that we have to uphold. And the changes that you're recommending, in my opinion, I don't know, but we're an entire Board, so I'd like to hear what everybody else-

Lauren Simons: Well, the illuminated portion of the sign is being reduced drastically. The sign itself now is illuminated 61 inches. We're going to bring that down to only 19 inches. And again, we can take it from

a 60 watt bulb to a 40 watt bulb to reduce any type of glare or intensity that it may portray. But I think the papers that I've circulated will show the part that is illuminated. The rest will not be as it is now, 60 inches. It's down to 19 inches. So it's just a strip of the sign rather than...

Chair Hext: So Sunoco will not be illuminated?

Lauren Simons: No. Sunoco will not be illuminated, no. So it makes it a little bit...

Board Member Litten: It shows 61 here. The document that you gave us, shows the width of the sign to be 61 inches.

Lauren Simons: Right, but the illuminated portion.

Board Member Litten: So you show it at night, you have an example of what it would look like at night.

Lauren Simons: Only the prices. I'm sure you can't see it from there, but the submission shows what this would look like at night, and it's almost 61 inches wide that's white.

Lauren Simons: But only the digital parts are illuminated.

Chair Hext: So only the prices.

Lauren Simons: Only the prices. And that comes to 19 inches.

Board Member Freeman: Your Logo sign is the only thing that's going to be white. And that's not illuminated, just the price is under it.

Lauren Simons: Correct.

Chair Hext: Okay. That's different than what we're seeing.

Lauren Simons: Yep. It's just the digital 19 inch portion of the digital sign that will be illuminated. Nothing else on that large sign, street sign will be.

Chair Hext: Will it be going on the existing pole?

Lauren Simons: Yes. We're not changing the pole at all.

Chair Hext: Do you know the foot-candles of...

Lauren Simons: Yes. I was just double checking on that. The foot-candles are... I do have that somewhere, now I don't know where. But it doesn't exceed the candles of the town.

Chair Hext: Village. Right? You're going by the Village code, not the town, right?

Lauren Simons: The code. Correct. Yes. Sorry.

Chair Hext: That's okay. Just want to just make sure.

Lauren Simons: Yep, that's what I meant. Sorry. I did write it down.

Board Member Litten: You have three options. How do we read that? Does that mean that you're not decided what you want to do or...

Lauren Simons: No, it's really for the Board to decide. Our intention is to put the 60 watt bulb, but if you feel that that might be too strong, we can go to the 40 watt bulb. There won't be any additional electricity needed for the sign itself. It's a plug, LED. And the main ID, the Sunoco is white, but because of whether we use the 40 or the 60, we can reduce it in that capacity.

Chair Hext: Why would there be a bulb in it at all if you're not going to illuminate it?

Lauren Simons: Well, the LED.

Chair Hext: Oh, okay.

Lauren Simons: It's the LED.

Chair Hext: But that's red, right?

Lauren Simons: No, no, that's white.

Chair Hext: If it's only the prices that are going to be illuminated, correct?

Lauren Simons: Correct.

Chair Hext: It shows here like red LED.

Lauren Simons: Well, that's an option. If the Board would prefer red, we can do red, we can do green, we can do white. Whatever, we just want it illuminated. But if you don't like the color scheme, we can go to plain white. We can have the LED color whatever color the Board prefers.

Board Member Sullivan: The option number one, it looks like the prices are white and they'd be back lit from inside, right?

Lauren Simons: Correct.

Board Member Sullivan: And then option number two looks like it's a digital with the red or green or whatever color.

Lauren Simons: Correct.

Board Member Freeman: And that's the one that you're also offering the cash price?

Lauren Simons: With the cash price. Exactly, yes.

Chair Hext: And the other option was leave it as it is and change it manually.

Lauren Simons: And change it manually, correct. Yes.

Chair Hext: So it wouldn't be illuminated at all, or-

Lauren Simons: No, it would be similar to-

Chair Hext: What it is now.

Lauren Simons: What Cumberland Farm's has, yes.

Chair Hext: For the canopy, one thing to note about our code is that nothing can go over the roof line. So the one option looks like the arrow of the Sunoco is above the canopy roof line.

Lauren Simons: Okay. Oh, so you're talking about the red portion of it extending beyond. We can sever that so that it doesn't exceed the roof line. That wouldn't be a problem.

Chair Hext: The only other issue and interpretation of the code is we do not allow signs on a roof. So the interpretation would be, "Is a canopy a roof?" And I defer to counsel on that. I know we use that, and I'm sorry to keep referring to Stewart's, but a precedent was set there. I know that when we had Stewart's, we did not allow them to put anything up on the canopy. You can see that it's not like that. There's nothing there. So I just want to make sure that we're not getting ourselves into setting a precedent on anything as far as signage or brightness or gaudiness. And I'm not saying it's gaudy.

Lauren Simons: No, no, I understand.

Chair Hext:

I'm just saying that this is at Altamont. It's not Latham, it's not Guilderland. It's a small little Village. And that's part of what we have to be concerned about. Would you consider anything like Stewart's has, as far as building a little area that you have your signage of your gas and your diesel, or regular gas and diesel price, cash, credit as opposed to a sign?

Lauren Simons: You mean the decals on the canopy itself?

Chair Hext: No, no. Instead of having it on the pole, having a small little area, same place that the sign is now, but just like a little garden area that displays your cash price, your credit card price, your diesel price, your regular gas price.

Lauren Simons: It is an option, but with the new re-imaging of Sunoco, they're really trying to have everyone uniformed and with the same look. They understand that there are issues with towns as far as the canopy goes and graphics on the canopy, but aside from that, they're trying to at least keep everything up to par with their new imaging.

Chair Hext: Anybody?

Board Member Danny Ramirez: Refresh my memory. LED is allowed in the Village for signage?

Chair Hext: Yes.

Board Member Danny Ramirez: Okay. Now you mentioned about the foot-candle, but at what distance from the fixture and/or lighting?

Lauren Simons: That is within the town scope, within the allowed candle.

Chair Hext: Anybody else have any questions or concerns? This isn't something that's going to be approved or disapproved tonight. Anything that goes before the ZBA, we're going to have to have a public hearing on it anyway.

Lauren Simons: Sure.

Chair Hext: And I expect some input from the public on this. Ginger, this will be out on the website at some point so people can plan in and look at the renditions of the different options?

Ginger Hannah: It is on the website.

Lauren Simons: It's on the website.

Chair Hext: Is it now? Yeah. Okay. All right.

Ginger Hannah, ZBA Secretary: There's two. Just so you know, for this meeting, it was so much material. There's two sets of material on the website that both have tonight's meeting date on them; so the second one says 2 of 2. That's this whole package of... if you want to look at it.

Lauren Simons: And it does show all the different price signs, the options, the decals, the lighting and everything. It gives you a clear view of it.

Chair Hext: Okay. I know one thing I would like to see or have you ask is if you could do something a little less obtrusive. That whole area there, I know you're going to improve it. I know you're going to paint. I know you're going to do all types of improvements, but I think an improvement really would be a nice little garden area or brick area or whatever you wanted to do and have the signage there. That would be, that's just me again. I've got seven other people here that can chime in.

Lauren Simons: You mean forming a garden around the pole itself?

Chair Hext: No, eliminating the pole. And doing something like I think the one in Voorheesville has it. Stewart's has it. A number of stations are going to that look so that it's not in your face. It is more conducive to certainly Main Street Altamont.

Lauren Simons: Well, Sunoco would have something similar to that. It would be lower. I can check with them. But I think it was going to be ideal to use the pole that we have just because it exists. So whether we can do something closer to the ground, might be more appealing on the same pole, and then as you say, build a garden idea around it, that might be an option.

Chair Hext: Okay. Well, thank you. At that, can I have a motion then to set a public hearing for June 27th. Does that work with you?

Lauren Simons: Sure. Absolutely.

Chair Hext: Okay. Could I have a motion then to set a public hearing for June 27th to review Sunoco Gas Station, 200 Main Street. Motion was made by Board Member Sullivan, seconded by Board Member Litten. Roll Call: All in Favor.

Chair Hext: Thank you very much.

Lauren Simons: All right. Thank you all for your time. I appreciate it.

Chair Hext: Okay. Next topic on the agenda is to read legal notice as a request for the area variance submitted by Mark Fanuele at 36 Sanford Place to allow parking of a 2016 enclosed trailer and a driveway on site of garage.

Attorney Clarke: All right, this is the notice of public hearing that was published. Please take notice that the Village of Altamont Zoning Board of Appeals will hold a public hearing on May 23rd, 2023 at 7:00 PM at the Altamont Village community room, 115 Main Street, Altamont, New York to hear all interested persons on the proposed application for an area variance to locate a 2016 enclosed trailer in the side yard of a parcel located at 36 Sanford Place, tax back number 37.14-5-42 in the Village's R20 Zoning District. Pursuant to Village law Section 355-22F, no trailer may be parked within the front or side yard at any time. All persons desiring to speak either on behalf of or in opposition to said proposed area variance shall be heard by either attending the public hearing or by submitting written comments in advance to the public hearing to the ZBA secretary. Copies of the application materials are available for review at the offices of the Village clerk, located at 115 Main Street, Altamont, New York 12009, and will be available on the Village website by Friday, May 26th, 2023. (copy of Legal Notice attached).

Chair Hext: Okay. Thank you. That opens the public hearing on this variance request. Does anybody want to speak regarding that?

No. Okay. Mark? Is Mark here. Okay. Want to just give a quick rundown. I think you explained it well last time.

Mark Fanuele, Applicant: My name's Mark Fanuele. I live at 36 Sanford Place. I got some dimensions. It's like 14 foot trailer, 95 inches high, like a 100 inches wide. And it's tucked right on the side of my house. It's been there for 30 years. And when I found out I wasn't in compliance, I applied for the variance.

Chair Hext: And what is the reason that you can't put it in your backyard?

Mr. Fanuele: I just didn't want to have to -- I got mature trees and if I tried to go around those, I'd be on my neighbor's property. The neighbor on the side that the trailer sits, he's fine with it. He wrote a letter stating that, and that was my main concern. But all my neighbors are pretty much in agreement. They have no problem with it.

Chair Hext: We received a number of letters in support. Looking at the recommendation from the Albany County Planning Board, they deferred to "for local consideration," which basically means it's up to our Board. One thing that the Board has to be concerned about is setting any type of precedent when it comes to a variance such as this. But looking at the New York State regulations on variances, one thing that we can take into consideration is, do you have to take down mature trees? Is that feasible? Where would it be more visible? And I think you had said in the last meeting, if you moved it to the backyard, it would actually be more visible from three sides.

Mr. Fanuele: It'd be visible on all sides. Yeah. Right now it's completely blocked, mostly on all sides. Once you throw in the foliage, summertime foliage. But the cars I park in front of it, it sits on the side. When I built the house, I put the driveway there for that reason.

Chair Hext: Okay. Does anyone have any questions for Mark going forward?

Board Member Litten: Let's see. I believe last month when we were talking about this, we were going to put some conditions on it that would not keep this variance attached to the property.

Chair Hext: We can't do that.

Board Member Litten: Oh.

Attorney Clarke: Granting a variance would run with the property. You're not granting it to a specific person.

Board Member Litten: So this variance is permanent.

Chair Hext: It is.

Board Member Litten: So the next person who buys the house can park his trailer there?

Attorney Clarke: Correct.

Mr. Fanuele: Next person might use it as basketball court. That's what it was for the first, when my kids were little, it was the basketball court too.

Chair Hext: Now, I think though, we did say that if he wants to change the size of the trailer or the trailer itself, or now he wants to put a 27 foot RV there, he would have to come back before us.

Attorney Clarke: Yes. So this applies to a certain piece of equipment being located there, because the variance - when you're going to go through your factors and consider impact to the neighborhood and what the site is, you are granting that based on a specific trailer and what that looks like. So although you're not granting it to a person per se, this variance will allow the next person to have a similar-sized trailer, but does not allow just anything to be parked in the side yard.

Board Member Freeman: If I am correct, it has to be registered, it has to be something that is used or whatever. It's not something parked there like a hay wagon or whatever. I've been by, I went and took a look at it. It's nice, neat. It's registered, gets used, it gets parked back where it's supposed to. Now if you want to go back there and put a fifth wheel, that might be an issue for sure. And it's all registered and inspected.

Mr. Fanuele: Yeah. I got the registration and I wrote down some specs. I actually measured it with the tongue, it's maybe 18 feet long with this 14 foot trailer.

Board Member Muhlfelder: And it's also used for business?

Mr. Fanuele: No, it's totally recreational. Me and my son race motocross. We go every weekend racing dirt bikes.

Board Member Sullivan: Could you just clarify, it doesn't follow the owner, it follows the property, but you were saying that it follows the specific piece, like if there was a different trailer or instead of a trailer, a motor home, would that still be considered if it's the same size?

Attorney Clarke: So I wouldn't think it would apply to a motor home just because that could be a different visual impact.

Board Member Sullivan: So same with a boat trailer...

Attorney Clarke: Yeah.

Board Member Sullivan: So basically this is for a 14 foot trailer in that spot?

Attorney Clarke: Correct.

Board Member Sullivan: Okay.

Chair Hext: Enclosed trailer.

Board Member Sullivan: Enclosed. Okay.

Mr. Fanuele: It was kind of made for it, it wouldn't really take any bigger than that.

Chair Hext: And that's the concern. That area won't take anything bigger than that, but if the next person comes in and parks a huge 27 foot luxury liner there or something, then we have a concern.

Attorney Clarke: Because the Board is going to consider whether it's substantial and I think part of the application is the fact that it's tucked back and kind of fits that. So anything larger, you may not have that same opinion. So that's why it's specific to a certain size.

Mr. Fanuele: The trees were there for that reason. But it also provides us with privacy in our backyard. My wife's big on her yard, so I didn't want to take down trees and put another drive in. We got heavy clay there, so off season you got heavy clay, trailer tire thing would sink right in so I'd have to put a drive in. I toyed with moving it off the property, but we talked about that. There's just too much value there. Too much risk to have it not on my property.

Board Member Freeman: You can't keep an eye on it either.

Mr. Fanuele: No, I use it all the time. Use it all the time.

Board Member Sullivan: My last question is if this were to be approved, does it hamstring us in consideration for further variances from other people with similar situations? Maybe not exact, but similar.

Chair Hext: It could. That's why the uniqueness of this weighs heavily, because again, if you go through those documents that I had sent to everyone, one factor is taking down mature trees. Would it be more visible if they followed the code? If those answers are yes, then we have a unique situation. If someone else comes in with that exact same situation.

Board Member Freeman: Well, I think that's why we have the code though too, is to goes situation to situation.

Chair Hext: We have to go situation by situation.

Board Member Freeman: Sometimes it'll vary.

Chair Hext: Right. Because you're right, James. It's a concern because I know a lot of people have a concern about doing this. And unfortunately again we try to keep everything neat here, and it can get pretty gaudy fast. If no one has anything else, should I go through this part of it?

Attorney Clarke: Yep. We have to work through that.

Chair Hext: Okay. Going through the document on area variances, the first one is whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the area variance. How do we all feel about that? [inaudible] We're not there yet. All right.

Whether the benefit sought by the Applicant can be achieved by some method, feasible for the Applicant to pursue, other than the area variance. I think he looked into other possibilities as far as going off site. He was a little worried about that, since he's got tools and everything else, and he can't put it anywhere else because of the trees, so I don't think it can be.

Whether the area Variance is substantial. I don't think so. Anybody? Stop me if anybody else doesn't agree.

Board Member Ramirez: Well you want to step back one? It was a self-created hardship and we're talking about vegetation that can be replaced, moved, removed, altered. Because we're looking at the possibility of having the trailer behind a house line. The back line, right? Versus in front or alongside. So if it can be done another way, there is an option there.

Attorney Clarke: Yes. So the self-created is the fifth factor, so we will get to that one. But I think the Board should discuss whether or not there were other options. I think the application sounds like it's more visible in the rear yard. And Chair also mentioned the not being able to potentially be located offsite. So if there's a consensus that there are alternatives that were not looked at, they should be discussed at this point.

Chair Hext: Does anyone feel that we or Mark didn't look into alternate measures? Danny?

Board Member Ramirez: No. The biggest impact would be to the neighbor, and right now the neighbor's complacent with it, does not have a problem. And I understand that when he spoke that putting it in the backyard would be much more visible all the way around. So I'm just bringing it out there that there is an alternative.

Attorney Clarke: The Board could also require a conditional approval that the screening remain in place. So if something were to happen to the existing screening on the side yard that it'd be replaced in kind, if that's a concern.

Chair Hext: Yeah, we can put that in the resolution. All right, good. That's good. Number four: Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Again, I think where he has it now is probably at the least visible impact. But I welcome any other comments just so that we have them in writing and in the minutes. No? Okay. And Danny, here's yours. Number five: Whether the alleged difficulty was self-created and which consideration should be relevant to the decision of the Board of Appeals, which shall not necessarily preclude the granting of the area variance. I think we all agree. It is self-created. He wants to keep it on

the side, which does not comply with our code. But considering we've had letters of support from many of his neighbors, and we will consider each time someone comes before us as a unique situation, even though we do have to refer to precedent. That's the law. The uniqueness of this situation, I feel, could be different than anyone else coming before us. It may not be, and if it's not, we'll have to just take that into consideration. Everybody good with that? All right. So resolution for the findings, right?

Attorney Clarke: Yep.

Chair Hext: All right. So should I do that or the EAF first?

Attorney Clarke: We should do the EAF first.

Chair Hext: All right. So we've got to go through the EAF form, and then once we do that we can do a neg dec. Everybody ready with their EAF form? Okay. Number one is, will the proposed action create a material conflict with an adopted land use or zoning regulations? I think we have a number four on that, which is little or no impact. Everybody agree on that?

Board Liaison Matulewicz: I think you need to close the public hearing first.

Chair Hext: Good point. Can I have a motion to close the public hearing please?

Motion to close the public hearing was made by Board Member Ramirez, seconded by Board Member Muhlfelder. **Roll Call: All in Favor.**

Chair Hext: In favor. Sorry about that. Thank you Tresa. Okay.

Number one: Will the proposed action create a material conflict with an adopted land use plan or zoning regulations. No, or small impact may occur. Everybody agree with that?

Number two: Will the proposed action result in a change in the use or intensity of use of land. I have a no or small impact may occur.

Three. Will the proposed action impair the character or quality of the existing community? I have a no or small impact may occur.

Four. Will proposed action have an impact on environmental characteristics that cause the establishment of a critical environmental area? I have a no or small impact may occur.

Five. Will the proposed action result in an adverse change in the existing level of traffic or effect existing infrastructure for mass traffic transit, biking, or walkway? No small or little impact may occur.

Six. Will the proposed action cause an increase in the use of energy, and if fails to incorporate reasonably available energy conservation or renewable energy opportunities? No, or small impact may occur.

Seven. Will proposed action impact existing public or private water supplies, or public or private wastewater treatment utilities? I have no to both of those.

Eight. Will proposed action impair the character or quality of important historical, archaeological, architectural or aesthetic resources? I have a no or small impact may occur.

Nine. Will the proposed action result in an adverse change to natural resources (wetlands, water bodies, groundwater, air quality, flora and fauna)? No, or small impact.

Ten. Will proposed action result in an increase in the potential for erosion, flooding or drainage problems? No, or small impact.

Eleven. Will the proposed action create a hazard to environmental resources or human health? No, or small impact.

Okay. So I guess I'll read this.

Attorney Clarke: So based on the answers that you just had on part two and there being a no to small impact on all the factors, the Board should consider a motion to adopt a negative declaration that there will not be a significant environmental impact by approving this Variance request.

Chair Hext: Can I have a motion? Motion made by Board Member Muhlfelder. Seconded by Board Member Ramirez. **Roll Call: All in favor.**

Chair Hext: Okay, now. We're getting there everybody. I know you're probably all falling asleep out there. We're getting there. I'm going to read the resolution to adopt a negative declaration. (see attached Resolution Issuing a Negative Declaration).

Could I have a motion for adopting this resolution please? Motion made by Board Member Muhlfelder, seconded by Board Member Litten. **Roll Call: All in favor.**

Chair Hext: Now the only thing I have left here, we have to add a couple things to this, right?

Attorney Clarke: Yes. If you want to add the screening condition.

Chair Hext: And that it'll always remain registered and if the size of the trailer or anything changes, he has to come back. Okay? So the next is Resolution, Findings, and Decision on Request for Area Variance (see attached). Can I have a motion to approve the Variance please? Motion made by Board Member Muhlfelder, seconded by Board Member Litten. **Roll Call: All in Favor.**

Chair Hext: Yes. Thank you. Do we want to take a five-minute break? It is 7:47.

Chair Hext: Is everyone back? Everybody's ready? Okay. So I think everybody is here for the Variance submitted by CM Fox Living Solutions LLC, Troy Miller, to allow the creation of four new Keyhole lots with approximately 16 feet of road frontage property at SBL. That's our tax map, 37.14-3-6.1.

Attorney Clarke: So just to give a quick update on CM Fox tonight and procedurally how we're going to work through this. We will open the public hearing. This is going to be the first opportunity for the public to comment on the application. There is no plan to close that public hearing tonight. There will be no vote or action taken on this application tonight. The Zoning Board of Appeals has declared itself lead agency, but the Applicant has not provided the distribution list which is required for SEQRA. We have to notify all of the involved or interested agencies about our Declaration to be lead agency.

Once that is submitted, that starts a mandatory 30-day period by which those involved or interested agencies could contend either that they should be lead agency for purposes of SEQRA or that they consent to this Board serving for SEQRA. So again, this is going to be the first opportunity for you to make your public comments. No decision tonight, but we will afford the opportunity. And before we open the public hearing, we are going to give the Applicant a chance to introduce the project, go over anything that they would like to go over. And the Village has also retained an engineer. So we'll also allow the engineer to speak tonight. And at that point we will open the public hearing and hear comments. So that's just to give the public a reasonable notice of how we're going to go through procedurally. Thank you.

Chair Hext: Thank you. Steve, can you address anything that's changed since the last meeting?

Mr. Walrath, Surveyor: As far as the proposed design, I don't think anything has been changed. The last time we did talk about a sidewalk. One of the things that Troy is willing to do is to build the sidewalk along the south side of Schoharie Plank Road if the variances are granted. I know there's a lot of issues with pedestrian traffic on Schoharie Plank Road. The bridge that comes over at the end of Euclid Avenue over the creek. That could certainly alleviate some concerns as far as traffic and pedestrians walking up and down Schoharie Plank Road.

The Variance request, the code requires 30 feet of frontage for a keyhole lot. We're proposing four keyhole lots here on Schoharie Plank Road. They approximately have 16 and a half feet each for the frontage. Minimum frontage requirement is 15 feet by state law. The Village requires 30 feet, therefore we're asking for a Variance to go down to around 16 and a half feet for the four of them, and create one common driveway to service all four houses. The reason the Applicant wants to do this is there's enough room in here to put a public highway in. It's more than 60 feet wide, and what we don't want to do is we don't want to put a public highway in there. We just want to do a common driveway for the four lots, and it would be just limited to those four houses. And we also talked about there'd be no further subdivision with any of the four lots here. So this would pretty much be it. So essentially that's what it is. We've talked with the Village in previous meetings and the Village hasn't been... they don't seem to want a public highway there, because they'd have to maintain it over the years and whatnot. And the common driveway is just... it's less of an impact overall for that spot there.

Chair Hext: Now talking about the sidewalk and the footbridge, I know there's been a lot of concern and a lot of speculation. Rumor. That Troy's going to take the footbridge out and put a through road. Could you please-

Mr. Walrath, Surveyor: No, no. That is not going to happen. The bridge is going to stay there. It's always going to be there. The bridge is approximately right here. It comes out and then you go up and down Schoharie Plank Road. He's willing to put money in escrow to build a sidewalk along Schoharie Plank Road up to Western Avenue if we get the variances. It's kind of like a, well, I don't know. He's just willing to do that because the concerns have been brought up about pedestrians.

Chair Hext: Do we have an easement there, Jeff?

DPW Superintendent Moller: Yes. On the creek side.

Chair Hext: You're talking on the creek side? Are you saying for the sidewalk?

Mr. Walrath, Surveyor: The easement? I don't know if you have an easement. I almost wonder if the right of way of Euclid Avenue goes right to Schoharie Plank Road. So it's part of a public highway; that would be my guess right now.

DPW Superintendent Moller: It would be more of a right of way.

Chair Hext: So that we could put a sidewalk in?

DPW Superintendent Moller: On the creek side. Couldn't put it on the other side. It'd be right on the top of a water main.

Chair Hext: Well, I mean there's other considerations about that too. You'd have to look in whether or not it's on the DEC protected. I don't know where that-Where does that creek, is that part of the Bozenkill Creek?

DPW Superintendent Moller: It's a tributary.

Chair Hext: It is.

Mr. Walrath, Surveyor: It's a tributary. Jurisdiction for DEC, the Army Corps of Engineers, would be essentially like to the top of the bank.

Chair Hext: Okay.

Board Member Muhlfelder: Although it's private land? Well wouldn't it be?

DPW Superintendent Moller: It would be in our right of way.

Mr. Walrath, Surveyor: Yeah. I think the foot footbridge to Euclid Avenue is on the public right of way already...and there's nothing that's going to change with that. Nothing is going to happen with that. It's going to stay.

Board Member Litten: Maybe you could correct me on this, but I thought that as a tributary to the Bozenkill, there should be no vegetation disturbance within a hundred feet of the center line of the creek.

Chair Hext: That's why I brought that up.

Board Member Litten: Yeah. Yes. But I don't think it's to the top of the bank. I think it's a hundred feet from the center line.

Chair Hext: I think that's our code.

Board Member Litten: That's our code.

Chair Hext: Yes.

Board Member Litten: I remember that from the Stewart's thing.

Chair Hext: Yeah, that's our code. Obviously that's further on down the line, but it's something that before promising that we're going to put in a sidewalk, we have to do a little bit of legwork.

Mr. Walrath, Surveyor: And I just want everybody to know too, we're asking for Variance and the granting of the Variance does not approve the project. It still has to go before the Board as the planning Board, the town designated engineer has to review all the design. I've seen comments about the flood zone, stormwater runoff, groundwater - we've addressed most of those things in our plans, in our report.

Also the construction traffic for the building of these four houses here on our plans and in our report, all the construction for these houses back here are going to come across the temporary construction road from Western Avenue and essentially work our way back out. So nothing, no construction equipment, supplies for building houses are going to come down Schoharie Plank Road at all. We know it's narrow, we know - I don't know what's under it for base, but that many big trucks would probably destroy the road. So that is not going to happen either. No construction traffic on Schoharie Plank also.

Board Member Ramirez: Would that include the driveway that's considered, that entryway that you're installing there?

Mr. Walrath, Surveyor: Yes. The driveway it'll be designed in conformance for everything right up to firetrucks and whatnot. I believe it has to be 20 feet wide, which is much narrower than a public highway going in through there. So that allows us to keep more vegetation on the sides because the two adjoining owners, the properties, the houses are quite close to the strip there. So we're trying to maintain as much of the vegetation and trees that are there now, as opposed to putting in a public road and widening the whole thing out.

Chair Hext: Anything you take down has to be replaced.

Mr. Walrath, Surveyor: Okay.

Chair Hext: That's in our code, if you take any trees down where applicable. I mean you can take a tree down where the house is going to be obviously. But if you do take trees down along that driveway, or any vegetation, you have to replace it.

Mr. Walrath, Surveyor: Okay. Another thing that Troy has proposed, it's not shown on the map, but we've talked about it, is along the rear of the properties on Schoharie Plank Road is to create a like a 20 25, 30 foot wide buffer zone, which would essentially be a no clear zone that could just grow up naturally and that would create a buffer between the existing houses and the new houses.

Chair Hext: Or is there any plans to put in deciduous trees or evergreens or something? The no cut zone, I get that, but that's only good in the summer...any other time of the year it's going to be an impact.

Mr. Walrath, Surveyor: That I don't know. Have you discussed any plantings at all?

Applicant Troy Miller: No, but I'm open to it.

Chair Hext: Good answer.

Rolando Andres, Project Manager: Hi, RO Andres. I'm a project manager for Walrath Surveying. This is page C 110. On page C 130 of this plan set, we have proposed plantings along the back line here. Again, both deciduous and coniferous trees native to this area to increase the privacy of both the new homes and the existing homes.

Chair Hext: Okay. Thank you.

Mr. Walrath, Surveyor: Thank you.

Chair Hext: Okay. Thanks Steve. I guess, okay, Brad, would you like to address some of the things of your concerns? Please, I do this before the public hearing because I think you might be answering some of the questions that everybody has, including the Board. I know based on some of the letters that we've gotten, flooding and runoff and so on and so forth, they're our main concerns.

Brad Grant, Engineer, Barton & Loguidice: Brad Grant with Barton and Loguidice, this is much of Altamont, it drains from the hills towards Guilderland Center. There's a general existing drainage pattern that this all moves this way. There is the creek down here and low areas tend to drain towards the creek. Some do go towards Marion court. There's some low areas along here. The plans are basically to address the Variance application and there's further engineering to do. There has been some, this project will get

water and sewer from existing utilities, except that because of the topography of this site, there'll be grinder pumps that will pump up to existing sanitary manhole here and down here.

Chair Hext: And what does that ensure?

Mr. Grant, Engineer, B&L:

That ensures the preferred method is by gravity. No power is required, but sometimes the topography doesn't lend itself to that. This is a very flat site for the most part, particularly in the middle here. So the pressure sewers and they're around, the best ones are the ones proposed, which are Environment One made in Niskayuna and they're a solid mechanism to grind and to also pump your sewage to a gravity sewer. So this all ends up down in the plant ultimately. Water connections would be here and likely there and then individual services, three-quarter inch or one inch depending on requirements, would be for the individual homes. Stormwater needs to...there will be an increase in imperviousness on this site.

You build houses, you put driveways in, you have patios and garages, that's naturally a well grassed field right now that's probably been hayed over the years. This is about where that hedgerow goes and there's a small opening there. I walked it the other day and I know they had done a number of test pits there. Soils are typical Altamont soils, they're a little heavy. They're not horrible. They can be worked with. The good stormwater management is trying to mimic the existing patterns to the extent possible, which basically goes down to infiltration or small holding basins or rain gardens that help to hold some of the excess runoff.

Chair Hext: And is that in the plans to do the rain gardens and the cap?

Mr. Grant, Engineer, B&L: Not yet. That's forthcoming. There were responses to my comments about that. They want to get through the area variance because if this whole thing changes, so would any design that you would do. So it's not a reach to want to get through the planning and the layout part of it and then the engineering will follow.

Chair Hext: It's still important to hear that.

Mr. Grant, Engineer, B&L: Absolutely.

Chair Hext: Going forward, like I said, that's a concern of ours. It's a concern of many of the residents. So I want to make sure that.. I know I've read your responses and I don't know if the public has had a chance to see them.

Mr. Grant, Engineer, B&L: But yes, Steve had authored a letter in response to my comments. So I'm just going to go in order here. I didn't have comments on each one of the responses, but I authored a review letter on February 21st of this year and Steve's letter is May 9th in response to these.

For this concept of having driveways come up, a common driveway coming up a portion on both ends here, there needs to be agreements that there's common access and rights to it and common obligations to maintain it, including not just the driveway itself, but any drainage that might be a part of this.

In looking at that, the draft maintenance agreement it seemed, and that would go with the land as in perpetuity, but the one thing I would want to include in the language is inserting a couple words is that, "and drainage", not just the gravel, not just the driveway, but generally drainage.

Probably the profile of those driveways, that'll come later but the...would not want to dam up water and basically allow it to run off similar in a sheet flow pattern in this direction.

That was a comment on the maintenance agreements. Here's the \$100 one, and I think the plans now say a 16-foot wide driveway, but I think in the fire code you really want 20 foot for an apparatus and that's going to come later. You would have to have turnarounds, the ability for a fire truck to get in here and get out of there. There's hydrants down here, there's a hydrant there.

And generally the standard, depending on where you are, is either 500 or 600 foot hose length to be able to put out a fire. So if you go five to 600 feet, I did a rough arc through here and there's like one small sliver of land, which is probably the backyards and not necessarily where the homes are themselves, which would be the primary thing to put out. But it's kind of maxed out as far as the separation of those. But there are existing hydrants there.

Has considerations of a singular access-this is my comment - has further considerations of a singular access via public road from Western Avenue, is there a possibility of getting a public road in here, like a cul-de-sac that you could service all of the lots and not even need this? Still would need it for utilities and I don't think an underground pipe is what would concern people on here. A driveway that's in traffic on it is another matter. Steve already talked about construction access, that's really verboten. This road won't stand up to concrete trucks times four times all the materials that have to come in, whether through here or through here, which I would prefer construction access come in here and basically build your way out of here. Start with the back and work your way up this way.

Coming in through here, close to these properties - no reason to be that close. You got this is wide open, can still get there to do what's needed.

Is there a way to reduce some of the dependence on Schoharie Plank Road? Even if you did three lots coming out this way and got one of these to turn in the other direction, it's not inconceivable, but you're not going to get a 30-foot frontage, you got 63 feet, the only way you're going to do it is two. And right now four are going to it.

Applicant: We would need the Variances.

Mr. Grant, Engineer, B&L: Right. So if you would kind of transfer the need for variances either here or back here... they did some great things here because property lines get old enough, people go over them and encroach, not intentionally, but there's been some adjustments in basically giving some land and kind of swapping out some land here, house is right on its property line there. So there's some lot line adjustments that do both the existing homeowners good and the development proposal.

Chair Hext: Does anybody on the Board have anything for Brad? Because I know that I'm sure Brad's going to be on the witness stand when the public hearing is open.

Mr. Grant, Engineer, B&L: Steve brought me up this map yesterday and I kind of talked about some of the things and it's not inconceivable to, instead of having lot five come out here, rework some of these property lines that such that lot four could accommodate a common driveway for two lots. But again, you got a little less than 47 feet divided by two, you're not going to get the 30 foot there. So that would just be another area to have a Variance.

Chair Hext: Then you'd have three.

Mr. Grant, Engineer, B&L: Right? It just, it'd be never ending. It was a concept I looked at, but you're still in two variances no matter what you do.

The area disturbance? The plans indicated there is like 2.93 acres of disturbance. I'm not sure that included all the [inaudible - drivers?], it did around here. It could be a little more than that, but it's less than five unless someone went totally crazy and a contractor needs to again work his way out of here. So

by the time you get out to here, you've stabilized this area. Whether the house is done or not, at least you've grown grass. You don't have bare soils that can move about.

Chair Hext: And who - would Gary be responsible for keeping tabs on that? That they're not disturbing more than they had anticipated? And if that happens, what's our recourse?

Mr. Grant, Engineer, B&L: Well that's through the powers of the building inspector. I think it's a good idea that somebody keeps an eye on it. There's a construction sequencing plan or there will be, that's finalized. There will be certain things on the plan that the contractor has to pay attention to keep. The concept is keep the disturbance around your house. So if you have a stockpile of topsoil, it isn't way out in the back 40, it's near where you're disturbing anyway. So minimize, which is also a cost-efficient way of doing things, you aren't treading all over here, this isn't a racetrack for construction equipment. Keep the disturbances close to where you're doing. And I think the more recent layout showed the houses in shorter driveways as opposed to very long driveways. But fire access, being able to turn around, there's details yet to go through. Some of these things I just put pending. More engineering and detailed plans will be coming.

Chair Hext: All right. Well I think at this point I'd like to open the public hearing because I'm sure they've been patient.

Mr. Grant, Engineer, B&L: There's a couple more things I could perhaps address that there were, because I read the resident letters, concerned letters. There in the DEC stormwater design manual 2020 - I didn't bring a copy of it, but I got it on my phone and I hope I don't have to look at it because I should have held it this way instead of this way, but there's an Appendix D that is who can be covered under the construction activity permit. I love their wording. They make it sound like it's a real opportunity that you're going to miss if you aren't covered under this, not so much.

But the residential development - there are some things that are exempt from a full SWPPP. A full SWPPP includes water quality treatment and water quantity treatment, which your larger projects will have that. But one of the caveats is everybody's doing what's called a basic SWPPP. How do you keep sediment from going off your site? You're not tracking it out to the road. You have stabilized construction entrances, you got silt fence, just a number of the basic things, but not entirely big bioretention basins. That said, and this project applies to that - it qualifies for that, just needing the basic SWPPP. There is a change in impervious area and there will be in runoff on this site. There's ways to mitigate that. And as I talked about early is either rain gardens, small bioretention basins, basically depressions, not deep, shallow, perhaps broad in the back, but where you can direct some of that impervious drainage to, like your gutter downspouts and stuff. So it isn't just hitting the ground and running in this direction.

There's also some things we want to do for diversion. Right on this property line junction, there's a drainage swale showing here that will take some of the drainage from these two lots, not really anybody else, but it's kind of directed here, it's coming on somewhere in here, that drainage swale. So it's not necessarily pointed at the houses, but it's pointed towards the property. What I'd like to see is a drainage swale and it can be diagonal, it gets it towards a creek instead of Marion Court. Now, does some of the existing, the way it sits now, drain that way and get to Marion Court? Yes it does, but this is going to be stepped up. You're going to have more building and hard surfaces, so that means more runoff. You've got to do something. Well, we've talked about that.

The engineering will get there when it gets there. There has been some test pits. There were eight test pits done across the site. It's kind of Altamont clays, it wasn't the blue clay where forget about infiltrating everything. It's probably sea soils and you can do some level of infiltration there. That's the way we mimic natural drainage, particularly in forests and unless you're on a hill slide, it has a chance to infiltrate in the ground, recharge groundwater, be released slowly and ultimately it gets into the tributary and the

Bozenkill and goes down to the reservoir and where everything's all paved, it gets there lickety split. That's what we want to kind of avoid.

As such, driveways kind of want to...grading is everything, and there may be a need for some culverts, but generally these driveways kind of want to be cut into where they're at existing grade and not change the drainage patterns to the extent possible. They're going to withstand that drainage by having a stout driveway cross section so they won't wash away.

Chair Hext: Yes. Good.

Mr. Grant, Engineer, B&L: Almost done. We talked about the sidewalk here. Jeff, we talked about this today. The Village has done a bang up job of doing sidewalk work themselves up on 397 and also on Lark Street in the Village. They've gotten grants to do something. Really only got compensated for the materials, didn't get compensated for their labor, which baffles me. So when we get to do Fairview in a few days, we're going to be up there doing a new sidewalk. We bid it out. So you really aren't seeing the way this is going to go if this happens, it's going to be through either escrow or Troy's contractor building it. But if it's an escrow, it really should be based on a publicly bid unit price.

What's it going to take for you to go through design plans, put it out on the street and then have a contractor do it? And the difference is, private you may be around \$50 a foot finished. We're up at about \$87 a foot up on the Fairview and that was actually a good price. I generally say a \$100 to 125 if you're doing some handicap ramps and some other things. I think if Troy isn't putting it in himself, then escrow should reflect what it would cost for it to be done on a public basis. And a lot of these other things are pending, but I am concerned about the Schoharie Plank Road. It is narrow. Having a sidewalk would at least get, because I walk here too, I love it. It's the loop, it usually ends with an ice cream cone. It's narrow, we don't want construction activity coming down here. Even the trusses when they get to there is maintain this road, build your way out and don't, because that's, that's old pavement, the Village used to do micro paving, which is kind of a, it looks nice for a while, but it doesn't necessarily last. Particularly concrete trucks, garbage trucks, snowplow trucks, they are the Achilles heel of pavement. You could run a thousand cars up here every day and it's not going to make a difference, it's the heavy axle loads of major trucks.

Chair Hext: Okay. Thank you Brad.

Attorney Clarke: Ready? Okay. We're now going to open the Public Hearing. Just have to read the Legal Notice. (see attached Legal Notice)

Chair Hext: Thank you. With that, I have Joe Connors. Would you like to come up and speak? Step up to the microphone. Please state your name, and if you wish to, your address.

Mr. Connors, Resident: Thank you, Chair, and Board Members, council, Developer Applicant, Mr. Grant. I'm here with my wife Jaya. My name's Joe Connors. I live at 6393 Gun Club Road, which is right along this area, the northern area that is adjacent to this section of the property. Bozenkill Park is across the street from us on Gun Club Road.

There are three preliminary issues I'd like to address, and then three reasons why we are here to oppose the requested variances. The first preliminary matter is we filed a letter this morning. I made copies for the Board Members. We'd ask that that be made part of the record and included on the website. Both my wife and I are attorneys and we affirm under penalty of perjury that all the factual allegations in that letter are true.

The second item is that we request that additional information be made part of the record of this hearing, including the videos and minutes of previous conversations that the Board had with the Applicant-

Chair Hext: That is on the website.

Mr. Connors, Resident: We'd ask that it be part of the record for this hearing, including the videos and minutes September 27, 2022, January 4, 2023, March 28, 2023 and April 25, 2023.

The third preliminary matter is to the extent that there is ... I believe Mr. Grant said that he had a February 21, 2023 letter to CM Fox initial engineering assessment. I didn't see that on the web page. I'd ask that that be made of the part of the record for the hearing here tonight.

Chair Hext: Dated February 23rd, you said?

Mr. Connors, Resident: February 21, 2023 was the date that was given. Or any other written communications between your independent engineer and CM Fox, so that the public is fully informed of the concerns. The three reasons we oppose the variance: first, it's based on additional factual information that I'll highlight, the legal guidelines that apply to requesting a variance also support a denial of the variance, and there's also significant environmental impact associated with the variance and the project as a whole.

Quick highlight of the factual information. Some of it is in the letter. We have three dogs. Sometimes I walk the dogs along the border of our property here. The dogs always come back with muddy paws. It's a wet area. There's surface water, it's saturated. It leads me to believe that there's a high water table in the area.

Chair Hext: You're talking about the area to be built, the acreage, which part?

Mr. Connors, Resident: Yes, Lot one, lot two. I've been over here before. It's wet in these lots. One, two, and six especially is where I've noticed it to be very muddy and wet. The other factual matter is I know you're going to be looking at the impact on neighborhoods. I'd encourage you to look at the sizes of the different lots and the number of houses that are on the houses adjacent to the proposed project. Our neighbors are great neighbors, but we all appreciate our privacy. You'll find that the neighborhood Gun Club Road, Marion Court, include big lots, some over two acres ... ours is over five acres ... with one house on them. That's relevant to your consideration.

The other thing that I'd like to highlight in terms of factual matters is the abundant wildlife in the area, including bats that fly over all this property all the time in the summer. I'm not a biologist, but I believe that they might be endangered long-eared bats that are going to be considered an important consideration.

Chair Hext: There is a certain time when they can't do anything because of that.

Mr. Connors, Resident: Okay, thank you. The other important thing, I think you could take notice of it, is currently we have an unobstructed view of the Helderberg Escarpment, part of a state park, which is a special feature and consideration.

And finally, there's been some talk already about pedestrian traffic in this area, but there's also a lot of pedestrians that walk over to Bozenkill Park. I'm assuming that there's going to be families moving into the area under this proposal, and I'd ask that you consider their safety too. It's very dangerous. We've expressed concern in the past that cars go too fast in the area. There's no sidewalks along Gun Club Road to the park. That should be a consideration, looking at the big picture about how this property connects with the broader community. We don't want anyone to get hurt.

Moving on to some of the legal issues, I don't think I need to lecture the Board on the law, but I just want to highlight a couple things. First, it's important to keep in mind that the burden of presenting evidence in

support of the Variance is on the Applicant. Especially at the last public meeting, the Board gave the Applicant notice of that and encouraged it to provide additional information.

The record for tonight's meeting includes a letter from your engineer with several concerns, and the answers to several of the concerns was, "We're not going to answer that until a variance is granted." So the information that you need to make a full and fair assessment on the variance isn't there. That in and of itself supports denying the Variance. Specifically, information about studies about the water table, information about a complete stormwater pollution prevention plan. There was some talk about a five-acre limitation, but I encourage you to look at the DEC guidelines. I believe it's less than five acres of soil that's affected that can trigger a full stormwater pollution prevention program.

The Board rightfully had concerns about public safety, fire safety, and the widths of certain driveways or roads. I think there is a factual and legal issue here about whether or not the proposal really is calling for a private road with easement, if you look at the definitions of terms that I've outlined in my letter. Of course if it's a road, there's additional requirements about sidewalks and lighting that needs to be considered as part of the overall assessment here.

The Board also asked for a site assessment. If there's going to be multiple exits and entrances to the subdivision, more than two that's allowed under the current Village code, there needs to be a safety assessment about both the traffic and the site view. That was requested and not provided. That information wasn't provided. Looking at the four or five factors that you need to consider in granting the Variance, the Variance will result in an undesirable change in the neighborhood. It would open up property that typically might have one to three houses on it to 10 houses. It changes the nature of the neighborhood. It changes the views of the escarpment that I mentioned before, so certainly a significant impact there.

The second factor: are alternatives available. We've heard from your engineer that yes, other ideas have been floated. There's ways to build different roads in, there's ways to vary the entrances and exits to make this work. That's not before you right now, but it should be considered that it is possible. The response that's on the record from the Applicant was dollars and cents, it doesn't make sense. But that in and of itself is not a defense against there being alternative methods to achieve a fuller benefit of the land. I think it's important to note that when you buy property, you're not guaranteed to do whatever you want with it. You need to comply with environmental regulations and the Village code, so there's no absolute right to put 23 to 24 houses on it as has previously been suggested if this proposal doesn't go through. So there are alternatives available.

The third factor: is the variance substantial. Yes, it's asking for about a 50% reduction in the size of frontage property. I've cited in my letter to the Board where one of the factors is percentages and the degree of variation from codes, and other cases have said that even a smaller deviation from the code is a substantial variance.

Is there an adverse impact on the environment? You all know, I'm assuming, that one or more significant adverse environmental impacts should lead to a positive declaration. I'm looking at the magnitude and importance of the impacts at stake. There's at least four different environmental impacts that I can list: certainly the water and flooding issue that has been raised, the presence of an endangered species in the area, the value of the aesthetic resource at stake, the Helderberg Escarpment State park definitely is ... that's affected by this project, and the community character. Courts consistently indicate that Boards need to look at comprehensive plans to get a sense of the community character. The quiet, rural nature of Altamont and Guilderland as a ... I'm sort of a dual resident. I know that's not legally possible, but the Village town line crosses through our backyard. Both Guilderland and Altamont treasure that country-type environment which would be affected by this.

The next factor: is this self-created. Yes, clearly it is. The property doesn't need to be used in a way that the variance requests. The property was purchased by a sophisticated buyer that was knowledgeable about what the rules were when the property was bought. A risk was made. A risk was made that property is going to be bought, and I hope that the Village Board allows me to do more than what the parameters

currently allow, that a variance would be granted. It's a self-created problem here. The guidelines shouldn't be bent in a manner that goes against the neighbor's interests. I believe you're going to hear from other neighbors, and the record that I've seen online is replete with neighbors that don't support this. I'd be surprised if any neighbors do support it.

Chair Hext: I'm going to have to ask you to kind of wrap it up.

Mr. Connors, Resident: Yes, I will. Like 30 seconds. So for all these reasons, the variance should be denied. If for any reason you find that there is evidence in the record to support it, we would ask that additional mitigation factors be considered, including having a berm constructed along the back adjacent line of our property with conifer plantings on it. There is a current tree line there, but the trees are not conifers. Their leaves fall off in the winter. Most of the trees are dead. Maybe that's why the bats are there. They like all the insects. We believe in supporting that. The fact that there are some trees there right now doesn't justify not allowing that type of protection. If the Board decides to keep this hearing open, which I understand that it does, I'd ask that if any new evidence is submitted to the Board, that the public be provided the opportunity to comment on any new evidence before a final decision is made. Thank you for your attention and your service to the community. I appreciate it.

Chair Hext: Thank you. Okay, I think next up we have Ben Fox.

Benjamin Fox, Resident: Good evening. I'm Ben Fox. I live at 115 Schoharie Plank Road West, which is right there, adjacent to the proposed variance. Live there with my wife, my two children, and we love being members of the Village and the community. We had the opportunity to meet with Troy this past week. He met with me, Sharon, and Mark and Deb. We discussed some other plot adjustments, which aren't listed here obviously, because this was developed back in September, October. But what I have gathered from Troy is that he wants to build back here, either for himself, his family, or for development. Everything Troy wants to do, he wants to do it as best as he can. I think the Board sitting here also wants to do everything the best that they can. Because we've had this agreement, I am in a beneficial spot. So anything I say to you, I do not want to impact your decision, but I just want you to do what is right and not what's easy. I believe that this Variance shouldn't be approved until there's a full environmental assessment and all the other community members' comments are addressed.

Chair Hext: It can't be. By law, we cannot approve a Variance before going through SEQRA.

Mr. Fox, Resident: Thank you.

Chair Hext: Thank you. We have Mark, and I'm sorry, I can't read your last name.

Mark Naginey, Resident: Naginey.

Chair Hext: Thank you.

Mr. Naginey, Resident:

Yeah. My name is Mark Naginey. I'm not as tall as Ben. I live with my wife Deborah at 113 Schoharie Plank. My family has lived there since the 1950s. We've watched the flooding and the devastation that that little creek can do when it wants to. That's as far as the houses on Schoharie Plank. Basically what happens when that creek goes over, which I can personally remember seven times, it overflows just below Lincoln Avenue. It then flows down along Schoharie Plank. Then it goes over to 397, and then what happens is the water flows down Schoharie Plank and then right about where the Adams live, which

would between 105 and 103 Schoharie Plank, it splits and then it's two streams. There's the one that's coming down Schoharie Plank, and the one that's running behind the houses. They then all merge into one big stream, which is coming down behind 105 to 115 Schoharie Plank.

Chair Hext: Can you point that out on the map there, Mark, please? Just to give everybody a visual.

Mr. Naginey, Resident: Basically the water comes from here, flows here, and then flows all the way back, and then it all flows out there.

Chair Hext: So between yours and Johnson's.

Mr. Naginey, Resident: I've seen once where it's gone this way to the creek, but all comes out here and goes back to the creek. In the area where the driveways are being proposed, I've seen the water five feet deep there. As far as behind my house, which is right here, I've seen the water three and a half feet deep running behind there. As a matter of fact, the last time it distributed about two and a half quart of firewood, everything down. That is my concern. I've seen the devastation that flooding does and I'd be very curious to see how it's going to get engineered so that's not what happens, because the flow of the water's been there for a long time.

I know there was this brief discussion, and it wasn't in my original notes, that was about the bridge that goes from Euclid to Schoharie Plank. The bridge that is there now was put in by the Village. Up until that point, it was put in by the neighbors, going back to probably ... I think the first bridge went in there in 1961 to 1962, because I remember going to elementary school and it depended upon how we went to school ... could we jump across the rocks or did we have to go over to Lincoln Avenue and down that way. The original bridge was put in by the neighbors, and it was replaced. It was washed out and replaced a number of times. The only two bridges that have really lasted there was the one that the Village put in there and the one that I put in there as a college project. We used a couple telephone poles and we were able to span it and put it up high enough that it didn't wash away. Unfortunately, it did. So now that's where the Village bridge is now.

The water table, I noticed where the engineer ... and they dug their holes out there. I'm very familiar with the water table, at least where my house sits. I finally stopped pumping water through my sump pump two days ago. It started this year early, started in October, lasted all winter. Back years ago, it used to not really start until springtime because the frost was much deeper than it is now. Basically, my pump is set about four and a half feet below where my front yard is, so that's where the water table is. If it rains hard in summer, I pump water at that time also, but not all day long. Right Deb?

The other thing I think the Board needs to consider, I know we're discussing the 20 foot driveway for these four homes. It's going on to a 16-foot wide road that basically two cars can pass, but if they're real careful. What the neighbors all do is, you see somebody coming down or up, you pull over and we let the other drivers through.

My other concern is water. There has been no construction activity on Schoharie Plank except what was done on the other side of the creek across from 105. That's where all the construction project was. In the last year, we've had four breaks from there down Schoharie Plank. We had one break that I think broke three times, and that's right where that driveway is going, in the vicinity where that driveway is going.

Chair Hext: The proposed driveway?

Mr. Naginey, Resident: The proposed driveway is going. Basically it's just a little bit above where the proposed driveway is. You'd have to have your water guys tell them exactly where it was, but I know because they dug it up, what, two, three times?

Jeff Moller, DPW Superintendent: We replaced that whole thing. That's all brand new pipe now.

Mr. Naginey, Resident: Yeah.

Chair Hext: Does that new driveway affect that?

[inaudible]

Mr. Naginey, Resident: But then again, above that, which is at 115, there was a break. Then in front of 105 there was a break. I may be wrong as far as numbers, but there was a lot of breaks. So there's concern about our aging infrastructures ... join the northeast. If we are having breaks on a pressurized line, I'm curious to see what's happening in the sanitary sewer line, which is not pressurized, but we're going to add more volume to it. The proposal is to add more volume.

Okay. The last one, because I don't want to take up everybody's night, is the comprehensive plan ... comprehensive plan may be incorrect, but the whole idea was to make the Village walkable and ride bike-able and that kind of stuff. I can't tell you the number of baby carriages I see go up and down Schoharie Plank Road now. Never used to see that many. We're getting a younger group of homeowners with more kids, and I'm concerned about how we're going to maintain that walkability in our Village. Thank you for consideration.

Chair Hext: Thank you, Mark.

Board Member? : You're more than welcome.

Chair Hext: Okay, next person. Deb Katz.

Chair Hext: Do you want to lower ... can she lower the mic and sit? Would you still be able to see her?

Deborah Katz, Resident: I'll be okay. Thanks. Thank you to the Board, to Chairwoman Hext. Thank you to the Board, to Chairwoman Hext. Two things. And to Brad - you answered a lot of questions for me that I had. I've been grappling with trying to reconcile the DEC website that says disturbing one acre of ground soil requires a stormwater prevention plan. So thank you.

Chair Hext: That's commercial though. That's commercial. Residential is five.

Ms. Katz, Resident: Okay. And Troy, thank you for taking the time to meet with us all and be able to talk directly and voice our concerns and share some thoughts with you.

My concerns have been the same from day one really. If you look at the overall, as Mark mentioned, the 2006 Village Comprehensive Plan, that really talks to the unique nature of the Village, the unique character of the Village, the walkability of the Village. And development is inevitable, but I think we have a responsibility at some point to, again, take a look at the bigger picture and say we have school buses that are stopping, making multiple stops on that section of Western Avenue. We've got kids that are crossing there and there are no sidewalks or crosswalks.

Cars are going faster. People are distracted. They're mad. They're just not taking care when they get behind that wheel. We've had a child get hit in the Village this summer. We've had Ben and Heather, the kids, walking the kids to school, even over the crosswalks and being informed pedestrians, almost get hit.

That section of Western Avenue is a concern because once folks are coming down the hill and they hit that four-way intersection, they're going fast and they've got to come around that curve. And that's where

one of the entrances to the proposed subdivision will be. And there are school bus stops, like I say, all along that section. So pedestrian safety is a legitimate concern.

Even if we're talking about a small amount of houses going in, it doesn't matter. We're still looking at at least two vehicles per household these days. And as Mark said on Schoharie Plank West, we see another car coming, we pull over.

I think that these concerns might not be so highlighted without having had gone through the recent experience of a large residential construction project right across the creek from us. And my concern is taking in the consideration of the quality of life and going through that experience.

We all live here in Altamont because we love Altamont. I worked a very long, stressful career, and my retirement is just a true blessing. And I'd like to be able to just sit out in my backyard and enjoy my garden, read a book out there. Right now that's not possible. And it hasn't been possible for two years because of the amount of construction sounds that are going on seemingly almost every day. So it's a quality of life issue.

And I just ask us as a community, what do we really want Altamont to be? And that takes some decisions in looking towards the future and looking at that comprehensive plan. And even though it's an inspirational document as opposed to a book of regulations, it still has to have some significance for us as a community. So that's on the personal side.

From a technical perspective, I'm also concerned about the water supply, the impact to the infrastructure, and the flooding. It's really an issue. I don't want to completely speak for Sharon Foreman, but the Altamont fire department was there, what was it? Christmas Eve Day, pumping out her basement because she was flooded. So those repeated calls to help us understand what can be done to avoid impact to our property and any additional cost or repairs or burden of that, that we'll have to bear in light of the project.

My final comment is that the proposed access from the four lots out back onto Schoharie Plank Road again open up almost directly across from the footbridge. And that's where the kids play and that's where they stop to hang out at the creek on the way home from school. It's a safe spot for some of our senior citizens that live on Euclid to make a slow walk up to the end of Schoharie Plank and back.

And again, I know we're not talking a high volume of additional traffic, but all it takes is one vehicle going right into the path of what has been an established safe pedestrian route for many, many decades.

So thank you again for your time. This is an important job and we appreciate all the time and the thought that goes into it. Thank you.

Chair Hext: Thank you. I do have one letter from a resident that could not be here tonight, and I don't normally do this, but she was very passionate and very upset that she couldn't be here, so I agreed to at least read the finer points. It's from Deb Johnson and Kim Johnson, 117 Schoharie Plank Road West.

Her concerns are flooding. "Have flooding issues been readdressed with new frequency of the 100 year flood plain? Has flood data been incorporated into the flood plain regulations of all jurisdictions? Are there infrastructure upgrades to the water system since the water main break last year?" And I think Jeff said yes. "Will the road meet criteria for school bus transportation, garbage pickup, snow removal, mail and package delivery, two-way residential traffic, and sidewalks? What recourse do we have if we are harmed by this action?"

And I think what she meant is that if the building of the new homes results in any more flooding than they would normally have, is there a recourse. "For the above concerns, I am against this action." And that is again signed Deb Johnson and Kim Johnson.

Does anybody on the Board have anything to add at this point?

Board Member Sullivan: I just had a question.

Chair Hext: For?

Board Member Sullivan: Well, anyone who can answer it really. Does anyone know the speed limit?

Dean Whalen, Resident: [inaudible 02:04:02 – about wanting to speak?]

Chair Hext: Yes.

Mr. Whalen, Resident: [inaudible 02:04:05]

Chair Hext: You were, yes. We asked anyone that wanted to speak to sign up.

Mr. Whalen, Resident: [inaudible]

Chair Hext: Well, the reason was so that I would know whether I had to limit the amount of time that people spoke. Do we have a lot more?

Mr. Whalen, Resident: I wasn't aware that you had to. The public hearing is still open, correct?

Board Member Ramirez: Yes.

Chair Hext: Did you want to speak, Dean?

Mr. Whalen, Resident: Yes.

Board Member Sullivan: Can I just ask my question real quick?

Chair Hext: Yeah, go ahead.

Board Member Sullivan: The speed limit at the site of the proposed entrance on not Schoharie Plank, Western?

Chair Hext: 30.

Board Member Sullivan: It's still 30 there?

Chair Hext: Yes.

Board Member Sullivan: Okay.

Chair Hext: It doesn't change to 35 until you get to the split and Gun Club.

Board Member Sullivan: Okay. Oh.

Mr. Whalen, Resident: Dean Whalen, 125 Lincoln Avenue, Altamont. First, I want to mention that I have to acknowledge that this is a very clever plan. It's a very clever use of the property, given the limitations of the property. But it really does, and you may have discussed this in earlier meetings, it really totally depends on a major variance for site for keyhole lots.

Keyhole lots themselves are kind of an anachronism in a code that usually is done because a larger parcel that had a larger piece of property along a road or whatever right away carved out previously a parcel along that road and left over 30 feet or more to the back of the property. That's kind of the condition that's here, both on both roads. But this whole thing depends on carving up something into 16 foot right of ways, keyhole lots, which again, every issue is unique, but it really does create a precedent.

I mean, again, as I said, the intent of having keyhole lots allowed in the Village was to address very odd conditions that may have been created previously with farmland, which is to some degree true here, but requiring the 30 foot right of way as a minimum. So I think the Board is aware of that, but I think they need to consider that.

And I mentioned all this because there's also some documentation that was in some of the public comments about, well, you could do more because it's an R 15 zone with the public road. That's probably true. I'm not sure it's actually 24 lots. And my question would be has that really been presented as an alternative? I think Brad mentioned that earlier in his comments.

I think behooves the Board to, if it hasn't seen that prior, to request some sort of at least sketch plan of what the impact would be with legal lots, a legal road, probably a public road to maximize this lot without requiring these very minimum keyhole lots. Thank you for your time.

Chair Hext: Thanks, Dean. Okay.

Mr. Walrath, Surveyor: I'd just like to give you, this is the conventional layout plan.

Chair Hext: Just been given the conventional layout plans by Steve. Just to clarify what that was. All Right, I did not mean to not include everyone, if there's someone else.

Ted Neuman, Resident: Ted Neuman, 114 Lark Street. I would just like to repeat and reiterate the concerns that the other residents have had. To me it's about water and water. We have too much when it rains, and there's no way that this is not going to cause more flooding, in my opinion.

The second water aspect is it seems like we don't have enough water in Altamont in our water system. Last year, last summer, we were scared that we were going to have to shut down water and we wouldn't have anything to drink or bathe in. And now we're going to add more to the system. I don't understand it. It just doesn't make sense. So that's all I wanted to say. Just water and water.

Chair Hext: Jeff, do you want to address that at all, as far as, I know how you do the calculations.

Jeff Moller, DPW Superintendent: I don't have them with me.

Chair Hext: No, I know. But basically what you do is the buildable land within Altamont, how many possible homes could go there and what our water system could support. I think that's the way it's done. And I think last year part of the problem was we were down one well.

Jeff Moller, DPW Superintendent: Two wells.

Chair Hext: Two wells.

Jeff Moller, DPW Superintendent: We only have three in the Village. And last year we were down to just one.

Chair Hext: So I mean, that-

Jeff Moller, DPW Superintendent: That was a big concern.

Chair Hext: Yeah, it was a big concern and it was an unusual situation I hope.

Jeff Moller, DPW Superintendent: It wasn't a matter of not having enough water. It was not being able to use those two wells, which B&L is working on right now as we speak.

Board Member Freeman: Now, we still have the water restrictions every year, right? Starting in May.

Jeff Moller, DPW Superintendent: Yes.

Board Member Freeman: Okay. As far as watering lawns and gardens and whatnot?

Jeff Moller, DPW Superintendent: At certain times just to alleviate some of the pressure.

Board Member Freeman: Yeah, just some of the pressure.

Chair Hext: 7:00 AM to 9:00 AM and then 7:00 PM to 9:00 PM depending on your address, so odd / even.

Board Member Freeman: Yeah, I'm not watering my lawn. I mow it enough.

Chair Hext: Okay. If there's no one else-

Speaker ?: There is somebody.

Chair Hext: Oh, how did I miss you? Come on up.

Speaker ?: I see that we've had an additional document added there. It wasn't on the agenda and I'm not sure if it's on the website.

Chair Hext: I don't know. I didn't look at it. Is this on the website, Steve?

Mr. Walrath, Surveyor: No, it's not.

Chair Hext: We won't review this tonight. We won't even look at it tonight. Ginger will be sure that it gets put on the website.

Speaker ?: Can you explain what that is?

Chair Hext: Steve?

Board Member Ramirez: Steve, can you go up to the microphone and explain to everybody? Thank you.

Chair Hext: Do you want to put it up?

Mr. Walrath, Surveyor: I'll put it up. This is a conventional layout based on the existing R 15 regulations. I've got 26 lots here. I know we'll lose two because we would have to do something with stormwater. So

maxing out the site, we could get 24 lots here. And this would be a public highway coming through from Western Avenue to Schoharie Plank Road. And this layout requires no variances.

Chair Hext: So that would be just one entrance or would-

Mr. Walrath, Surveyor: It would be two entrances.

Chair Hext: Still two entrances?

Mr. Walrath, Surveyor: There'd be two entrances. Obviously, we'd probably have to do some work on Schoharie Plank Road, but this conforms to the regulations. And like I said, I came up with 26 and like I said, we probably would lose two for stormwater basin areas. So the site has a potential for 24 lots, and Troy does not want to do this. Troy wants to do the 11 lots with 10 new houses, and I can certainly provide this to you so you can put it on the website.

Chair Hext: Thank you.

Mr. Walrath, Surveyor: You're welcome. But even putting a public highway out here to Schoharie Plank Road, there's more than 60 feet there, which is the minimum width required for a public highway. So like I said, I'll provide you a copy of it, a pdf.

Chair Hext: Okay, good. Thank you.

Mr. Walrath, Surveyor: Okay. Anybody want me to leave this or?

Attorney Clarke: Just to make a note for the record. So the traditional layout would not require the variance, but we would still be going through SEQRA review as well as site plan review.

Mr. Walrath, Surveyor: Oh, yes. Yeah. Oh, Definitely. Yeah, this would. No, I'm just saying it is doable under the current zoning. Obviously it would have to be engineered, designed, reviewed and reviewed and reviewed, before it could get approved. But it works as far as a conventional layout maxing out the site, which is, again, I'll say this is not what Troy wants to do. This is what could be done if somebody wanted to do it.

Chair Hext: What would be the lot size on those?

Mr. Walrath, Surveyor: This is a minimum of 15,000 square feet. It's like all of these here. These are all 15,000 square feet. So it's like back in here. This is like... Well, here's the hedgerow right here. This right here is what Troy wants to do four lots on, all of these right here. So this gives you an idea of what could be done. We're not proposing this, but it's just a visual that this is what could be done.

Chair Hext: Thank you.

Mr. Walrath, Surveyor: Yep. You're welcome.

Chair Hext: You'll have that to the office?

Mr. Walrath, Surveyor: I'll have that to Gary's email. You'll have it by Thursday when you're in the office.

Chair Hext: Thank you Steve. And sir, just for the record, what was your name?

Steve Glass, Resident: Steve Glass, 100 Schoharie Plank Road West.

Chair Hext: One more person?

Bill Vincent, Resident: My name is Bill Vincent. I live at 133 Western Avenue. I'm probably the only representative from Western Avenue, which is right here at the end. His driveway, the road going on right hand side of my drive, of our property. When my wife and I moved in there 21 years ago, we bought the home from Colleen Kilts. I asked her about what's going on with the back field. They owned it and she said it had to be all bought at once, it couldn't be subdivided. And here we are 21 years later. We knew this moving in that at some point in time this day would come. I'm not surprised.

Yes, it is 30 miles an hour right there, because every weekend Jill pulls people right over and they park right in front of our house. Oh, she's got another one. And then we're mowing the lawn. Yep, there's another one. So it is 30.

But I knew it was going to happen and I spoke to the individual that was digging the holes out there. Hey, we're wide open. We get the view in the back there. I guess we'll see every piece of wood coming in and out of there starting from the back and working the way up in the front.

To me, good luck to the Board. I'm going to not say yes or no against it. And good luck to Troy. I'm not going to say yes or no against him. Right now I really don't have any gripe about it. Like I said, we were prepared for this at some point in time this was going to happen. And here we are.

That's all I got to say. It's good luck to the Board and good luck to Troy and we'll see what happens and see how big the houses are and they'll make us look like we're in a little tent and stuff like that. But anyway, good luck to the Board and good luck to Troy. Thanks.

Chair Hext: Thank you. Okay. That's it? Does the Board have any questions? Counsel, you have anything? At this point, I would like to make a motion to keep the public hearing open. That'll give us the opportunity, give the residents opportunity, to review any new information that might come in and have public comment at the next meeting.

Audience Speaker ?: I have a question. Some letters were not submitted until this past Monday. And I think there might [inaudible 02:17:46].

Chair Hext: Usually we ask in order for you to get them up on the website is like 10 days before.

Ginger Hannah, ZBA Secretary: If you have materials for anything that comes to the Board to be for the next meeting, it has to be two weeks before. To get on the website, anything that comes in up until Friday at noon is on the website. But anything that came in today, it didn't have time to get on the website or get to the Board for them to read it. But if it could be in before then – that's why the legal notice goes out 10 days before the meeting; it gives everyone a chance to respond and get it to the Board and on the website.

Chair Hext: And we do try. We do try to read every letter. And if you have any questions, call me, email me, whatever. Anybody can do that. Open book. So could I have a motion then to keep the (public hearing open)... One note though there will not be another legal notice posted because we're keeping the public hearing open. We are not required to publish another legal notice. So it'll be the 27th. June 27th at 7:00 PM will be the next public hearing. Try to get any more questions or anything that you have in in time, letters, anything like that.

Given that, could I have a motion to keep the public hearing open until June 27th? Motion made by Board Member Muhlfelder, seconded by Board Member Freeman. **Roll Call: All in favor.**

Chair Hext: Thank you to everyone for coming and for lasting as long as you did. There's a couple things in front of us or in front of you that took a while. I also thank you for your input. I think it's really important for residents to be involved. And again, if anybody has any questions, just send me an email. Be happy to help.

Okay. Any other business anyone wants to address before we look at the minutes from April 25th? No. Okay. Then a review of the minutes from April 25th. Did everyone have a chance to read them? Does anybody have any comments? They were long. Thank you, Ginger.

Board Member Muhlfelder: I didn't see anything.

Ginger Hannah, ZBA Secretary: One thing Barb said – on page 2

Board Member Muhlfelder: It says “the driveway or the asphalt ended”.

Chair Hext: Other than that, then can I have a motion to approve the minutes from April 25th, 2023? Motion made by Board Member Ramirez, seconded by Board Member Litten. **Roll Call: All in Favor.**

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

Chair Hext: Thank you, everybody.

Meeting Adjourned at 9:23 p.m.

Respectfully submitted,

Ginger Hannah

Secretary

Attachments: Public Hearing Notices (2) – Fanuele and C.M. Fox

Resolution Issuing a Negative Declaration - Fanuele

Resolution, Findings, and Decision on Request for Area Variance - Fanuele

NOTICE OF PUBLIC HEARING

Village of Altamont

PLEASE TAKE NOTICE that the Village of Altamont Zoning Board of Appeals will hold a public hearing on May 23, 2023, at 7:00 p.m. at the Altamont Village Community Room, 115 Main Street, Altamont, New York, to hear all interested persons on the proposed application for an area variance to locate a 2016 enclosed Trailer in the side yard of a parcel located at 36 Sanford Place, Tax Map #37.14-5-42 in the Village's R-20 Zoning District. Pursuant to Village Law §355-22(F), no trailer may be parked within the front or side yard at any time. All persons desiring to speak either on behalf of, or in opposition to, said proposed area variance shall be heard by either attending the public hearing or by submitting written comments in advance of the public hearing to the ZBA Secretary. Copies of the application materials are available for review at the offices of the Village Clerk located at 115 Main Street, Altamont, New York, 12009 and will be available on the Village website by Friday, May 26, 2023 at www.altamontvillage.org.

Dated: May 10, 2023

Gary Goss
Building Inspector and Code Enforcer
Village of Altamont

Deborah Hext
Zoning Board of Appeals Chairperson
Village of Altamont

Abutting
AFD
Fire Inspector
DPW

NOTICE OF PUBLIC HEARING

Village of Altamont

PLEASE TAKE NOTICE that the Village of Altamont Zoning Board of Appeals will hold a public hearing on May 23, 2023, at 7:00 p.m. at the Altamont Village Community Room, 115 Main Street, Altamont, New York, to hear all interested persons on the proposed application of CM Fox Living Solutions, LLC (“Applicant”) for area variances to allow the creation of four (4) new keyhole lots with approximately 16 feet of road frontage. The minimum road frontage requirement is 30 feet for a keyhole lot. The property is identified as S.B.L. 37.14-3-6.1 and is located on the Northeasterly side of the NYS Route 397 (Western Ave.) and Schoharie Plank Road West intersection. It is in the Village’s R-15 Zoning District. The request for area variances is being proposed in connection with the Applicant’s proposed subdivision of a 13.01-acre lot into eleven (11) lots, which includes the four (4) keyhole lots that are the subject of its variance request. The Applicant proposes to build a total of ten (10) residences on the newly created lots (one of the lots is already improved with a single-family home). The Applicant is also requesting a number of lot-line adjustments as part of the project. All persons desiring to speak either on behalf of, or in opposition to, said proposed area variances shall be heard by either attending the public hearing or by submitting written comments in advance of the public hearing to the ZBA Secretary. Copies of the application materials are available for review at the offices of the Village Clerk located at 115 Main Street, Altamont, New York, 12009 and will be available on the Village website by Friday, May 26, 2023 at www.altamontvillage.org.

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Abutting
AFD
Fire Inspector
DPW



ALBANY COUNTY PLANNING BOARD
NOTIFICATION

RECOMMENDATION DATE: April 20th, 2023

Case #: 02-230404212
Project Name: Fanuele Variance
Project Location: 36 Sanford Place
Tax Map Number: 37.14-5-42
Referring Agency: Village of Altamont Zoning Board of Appeals
Considerations: Use variance to allow the homeowner to store the enclosed trailer in his driveway next to his garage.

ACPB Recommendation: Defer to local consideration

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

Advisory:

Gopika Muddappa, Senior Planner
Albany County Planning Board

NOTE:

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

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

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

LOCAL ACTION ON ACPB RECOMMENDATION:

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

LOCAL DECISION ON PROJECT:

- PROJECT APPROVED
- PROJECT DISAPPROVED

VOTE RECORDED: all in favor DATE OF LOCAL ACTION: 5/23/23

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

SIGNED: Virginia Ann Hannah TITLE: EBA Clerk/Secretary

RESOLUTION

ALTAMONT ZONING BOARD OF APPEALS

RESOLUTION ISSUING A NEGATIVE DECLARATION

WHEREAS, the Zoning Board of Appeals for the Village of Altamont (“ZBA”) received an application from Mark Fanuele (“Applicant”) for an area variance to locate a 2016 enclosed Trailer in the side yard of a parcel located at 36 Sanford Place, in the Village’s R-20 Zoning District; and

WHEREAS, pursuant to Villag Law §355-22(F), no trailer may be parked within the front or side yard at any time; and

WHEREAS, the Applicant proposes to park the trailer on a paved area on the side of his garage on the east side of the subject property; and

WHEREAS, the Applicant submitted an application for area variance on March 16, 2023 (“Application”); and

WHEREAS, the Applicant has prepared a Short Environmental Assessment Form (EAF) pursuant to the mandates of the State Environmental Quality Review Act (“SEQRA”)(ECL Article 8 and 6 NYCRR Part 617); and

WHEREAS, the Zoning Board of Appeals has duly considered the contents of the EAF and completed Parts 2 and 3 thereof and determines that the proposed action will not result in any significant environmental impacts.

NOW THEREFORE BE IT RESOLVED, that the Zoning Board of Appeals hereby authorizes filing of the Negative Declaration (attached hereto and made a part hereof), according to SEQRA, 6 NYCRR Part 617.

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

The motion was moved by Board Member Muhlfelder

The motion was seconded by Board Member Ramirez

The vote was as follows:

All in favor:
Chair Hest
Board Members Ramirez, Muhlfelder,
Litten, Freeman, Sullivan
and Witham

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

I have compared the preceding copy with the original Resolution on file in this office adopted by the Village of Altamont Zoning Board of Appeals at a meeting held May 23, 2023 and I DO HEREBY CERTIFY the same to be a correct transcript therefrom and of the whole of the original. I further certify the vote thereon was as follows:

MEMBERS PRESENT	MEMBERS ABSENT	VOTE
<i>Chair West</i>		<i>All in favor</i>
<i>Board Members</i>		
<i>Ramirez, Muhlfelder,</i>		
<i>Litten, Freeman,</i>		
<i>Sullivan & Witham</i>		

Witness my hand and the seal of the Village of Altamont, this 25th day of May, 2023.

Ginger Hannah

GINGER HANNAH, CLERK
VILLAGE OF ALTAMONT
ZONING BOARD OF APPEALS

RESOLUTION
ALTAMONT ZONING BOARD OF APPEALS
RESOLUTION, FINDINGS, AND DECISION ON
REQUEST FOR AREA VARIANCE

WHEREAS, the Zoning Board of Appeals for the Village of Altamont (“ZBA”) received an application from Mark Fanuele (“Applicant”) for an area variance to locate a 2016 enclosed Trailer in the side yard of a parcel located at 36 Sanford Place, in the Village’s R-20 Zoning District; and

WHEREAS, pursuant to Village Law §355-22(F), no trailer may be parked within the front or side yard at any time; and

WHEREAS, the Applicant proposes to park the trailer on a paved area on the side of his garage on the east side of the subject property; and

WHEREAS, the Applicant submitted an application for area variance on March 16, 2023 (“Application”); and

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

WHEREAS, the ZBA duly noticed and held a public hearing on the application on May 23, 2022 at which time all members of the public wishing to speak were heard; and

WHEREAS, the ZBA referred the Application to the Albany County Planning Board pursuant to N.Y. General Municipal Law §239-m; and

WHEREAS, the ZBA has reviewed and considered all public hearing comments that were received on the application, the Albany County Planning Board’s response to the N.Y. GML §239 referral, and additional information relevant to the application and applicable standard of review.

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

- 1) The ZBA has considered the standard for Area Variance contained in the Village of Altamont Zoning Law Section 355-52(D)(3) and hereby adopts the determination and findings annexed hereto.
- 2) The ZBA does hereby grants the application for Area Variance to permit an enclosed Trailer in the side yard of a parcel located at 36 Sanford Place.
- 3) Conditions: (a) The screening currently in place will remain in place. If it is to die or have to be taken down, something of same reasonable size should be put back up. (b) The trailer should always remain registered. (c) The trailer size cannot be changed unless Applicant comes back before the Board. (d) Applicant brings a copy of the registration to the Village office so that we can make a copy of it and keep it in Applicant’s file.

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

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

The motion was moved by Board Member Freeman

The motion was seconded by Board Member Muhlfelder

The vote was as follows:

All in favor:

*Chair Hest
Board Members Ramirez, Muhlfelder,
Litter, Freeman, Sullivan and Witham*

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

I have compared the preceding copy with the original Resolution on file in this office adopted by the Village of Altamont Zoning Board of Appeals at a meeting held May 23, 2023 and I DO HEREBY CERTIFY the same to be a correct transcript therefrom and of the whole of the original. I further certify the vote thereon was as follows:

MEMBERS PRESENT	MEMBERS ABSENT	VOTE
<i>Chair Vest</i> <i>Board Members</i> <i>Ramirez, Muehlfelder,</i> <i>Litter, Freeman,</i> <i>Sullivan & Witham</i>		<i>All in favor</i>

Witness my hand and the seal of the Village of Altamont, this 25th day of May ____, 2023.

Ginger Hannah

GINGER HANNAH, CLERK
VILLAGE OF ALTAMONT
ZONING BOARD OF APPEALS

Ginger Hannah

From: Grace Mueller <jgmuel@icloud.com>
Sent: Wednesday, May 17, 2023 3:44 PM
To: villageadmin@altamontvillage.org
Subject: Mark Fanuele variance

Good afternoon Ginger,

Thank you for taking the time yesterday to clarify some questions I had about the proposed variance at 36 Sanford Place. As I stated yesterday, we are unable to attend the meeting on May 23rd. We are in favor of the variance request and hope that Zoning board will approve this.

We have lived next to the Fanueles for almost 30 years and they have had a trailer parked on their side yard for most of this time. We do wonder why after all of this time, this has just become an issue if the code has always been in place. I believe the mayor and the board should review and amend this code to allow one trailer, camper, boat, etc. in a side yard or something reasonable like that for all residents. The cost to tax payers like ourselves seems absurd to handle this on a case by case basis because of a few complaining residents, which we imagine is the case. Not worth our tax dollars to spend the time and money on something so ridiculous.

Thank you for your time and consideration, Jim and Grace Mueller
32 Sanford Place

Sent from my iPad

Ginger Hannah

From: Dolores Weaver <campweave@gmail.com>
Sent: Thursday, May 18, 2023 7:52 PM
To: villageadmin@altamontvillage.org
Subject: Zoning Comments

To Whom It May Concern,

We are unable to attend the ZBA meeting on 5-23, but would like to send comments in support of the owner's request at 36 Sanford Place to allow for his 2016 trailer to be located in his side yard. Please indicate in your records our support of his request.

Thank You,

Dolores and Davide Weaver
29 Sanford Place
Altamont, NY 12009

May 23, 2023

Altamont Zoning Board of Appeals
115 Main St.
Altamont, NY 12009

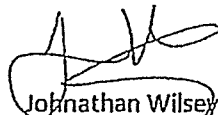
Letter of Support for Request for Area Variance by Mark Fanuele

I support Mark Fanuele parking his trailer at his home on 36 Sanford Place. Based on the minutes from the Altamont Zoning Board of appeals (ZBA) from April 25, 2023, it looks like Mark has received support from his neighbors for the trailer. I think that in general, support from the people whom you share a property line with should be considered most when approving a variance like this (non-far reaching environmental impact). It seems like Mark is a responsible property owner and an avid outdoorsman and because of this, should be able to use his property safely and securely as he sees fit.

I'd also like to take a moment to voice my opinion of support for Chair Hext's comments that this will set precedence for all future applications of this nature going forward. Chair Hext said: "Are we setting precedent here for the next person that comes before us that has a scrapper trailer or has an RV that's falling apart..." and the answer is yes, unless the ZBA provides clear, easy-to-understand guidelines for trailers and RVs. I hope that whatever the ZBA does, it would be consistent with future decisions and not on an ad-hoc basis. "One-off" approvals are what creates divide among communities, fosters the fear of inequitable governing, and furthers the sentiment of "no-confidence" in governmental organizations. In my opinion, being fair and being consistent is what this is about.

I've had three conversations about village residents parking trailers for private use on their property, two of those conversations were with members of this ZBA (one current and one former) and one with a long-time village resident. The consensus was that the ZBA does not approve property variances for trailers under any circumstances because of the fear of setting precedence, which is why I've never submitted a request for variance. If it's the ZBA's desire to slowly introduce trailers into the community landscape (which I vigorously support), it might be worth the village offering resident permits for recreational trailers based on season of use (and attaching a fee to the permit). Clear and concise guideline could be drafted (ie: trailer condition, maximum length, color scheme/patterns, open vs. closed, non-commercial use, etc.). I'd be happy to share my ideas on this topic if requested.

Sincerely,



Johnathan Wilsey
12 Gregg Rd.
Altamont, NY 12009

I recognize that the ZBA may not be the decision-making body for this, but I'm hopeful that the ZBA might facilitate a discussion with the proper channels on this topic.

→ ZBA

Ginger Hannah

From: villageclerk@altamontvillage.org
Sent: Tuesday, May 16, 2023 9:27 AM
To: 'Ginger Hannah'
Subject: FW: Suggestions for the Village Board

FYI

From: Sarah L Shultz via Altamont NY <cmsmailer@civicplus.com>
Sent: Tuesday, May 16, 2023 7:52 AM
To: PBlackwood <villageclerk@altamontvillage.org>
Subject: Suggestions for the Village Board

Submitted on Tuesday, May 16, 2023 - 7:51am
Submitted by anonymous user: 2603:7080:206:44b0:d5ac:a4a4:9d8e:a897
Submitted values are:

Subject: Suggestions for the Village Board

Message:

Hello My name is Sarah L Shultz and I live at 43 Sanford pl. I approve the request of Mark Fanuele for an area variance to locate a 2016 enclosed Trailer

Sincerely Sarah L Shultz

==Please provide the following information==

Your Name: Sarah L Shultz

Your E-mail Address: sar120lin@aol.com

Organization:

Phone Number: 5186188653

==Address==

Street: 43 Sanford

City: Altamont t

State: New York

Zipcode: 12009

The results of this submission may be viewed at:
<https://www.altamontvillage.org/node/2/submission/3786>

RESIDENT LETTERS

RE: C.M. FOX Subdivision

Received (or resubmitted) 5/19/23 or beyond and

in addition to the

Agenda and Materials posted for the 5/23/23 ZBA Meeting

ZBA Letter

Deborah Katz <deborahkatz14@gmail.com>

Mon 5/22/2023 8:10 AM

To: Mark Naginey <mnaginey@wradvisors.com>;

RECEIVED

MAY 23 2023

Village of Altamont

Dear Chairwoman Hext and Altamont Village Zoning Board Members, *my husband and I are resubmitting the following letter to the Altamont ZBA in advance of the public hearing on May 23rd, 2023.*

We are writing to you about the proposed subdivision off Schoharie Plank Rd West, Western Avenue, Marian Ct, and Gun Club Road. My husband and I own property and reside at 113 Schoharie Plank Rd West. We are long-time residents of Altamont.

My letter has two parts; 1) we wish to share our concerns and hopefully mitigate impacts resulting from the planned construction of the new subdivision, 2) technical questions specific to the SEQRA and zoning considerations.

My comments are not in opposition to the proposed subdivision. We know that "the field" has been for sale for many years. Marne Kiltz, and her beneficiaries, the previous owners of the land behind our home, shared this beautiful open green space and natural wildlife habitat for decades. We are very grateful for their kind generosity.

Personal Comments

Some ZBA members have said we should be grateful that only eleven homes are proposed behind our property instead of the R15 zoning that allows for 24 homes. That we should appreciate the possible increase in our property values. ZBA members commented that we will have impeccably landscaped homes to view in this new subdivision. Some residents and ZBA members frequently compare the new proposed subdivision and the completed subdivision on Bozenkill. Our experience is unique to our home and our life on Schoharie Plank West. Frankly, I prefer the sight of the Helderberg escarpment from inside my home instead of someone else's house. That is no longer the case. There is now a large new home and a glimpse of the escarpment.

The proposed third access from Schoharie Plank Rd West will alter this quiet road's unique character if permitted. The construction traffic will impact all who enjoy walking and biking around the village's interior over the footbridge. We are already imperiled when trying to use crosswalks in the village. Do we now have to give up the simple pleasure of walking on a quiet village road?

With a second large construction project on Schoharie Plank West, we will face another prolonged disruption to our daily lives. We lived through the 12-month-plus construction of the home at 108 Schoharie Plank West. The road is only 14 and 1/2-foot wide road. Our roadway was frequently blocked by construction and utility vehicles. Our driveways were, at times, blocked by construction trucks. Trucks barreled around the corner from Western Avenue with no regard for residents. Walking on Schoharie Plank Rd West was not safe during this time. Our lawns were dug up, and the road surface deteriorated. There have been three water main breaks on this road in the past 11 months. Thankfully, no medical emergencies occurred, which would have required EMS or fire trucks to wait until construction vehicles could be moved.

We lost the quiet enjoyment of our gardens, our yards, and even inside our homes because of the constant construction noise. We urge the ZBA to deny the applicant's request for a variance onto Schoharie Plank Rd West.

I ask the ZBA to consider the Altamont Comprehensive Plan and the holistic impact on all our affected residents and neighbors as they consider our comments, concerns, and questions regarding the proposed subdivision and Schoharie Plank West egress.

SEQRA - EAF and Implementation Comments/Questions

1) The project manager for the proposed subdivision stated during the 9/27/22 ZBA meeting that he believed 5 acres of soil disturbance required a Stormwater Pollution Prevention Plan (SWPPP). The NYSDEC requirements state that construction activities disturbing one or more acres of soil must be authorized under the General Permit for Stormwater Discharges from Construction Activities. Permittees are required to develop a SWPPP to prevent discharges of construction-related pollutants to surface waters. **Source:** <https://www.dec.ny.gov/chemical/8468.html>

2) Variances: Troy Miller, the developer, is seeking variances related to keyhole lots and shared driveways with egress to Schoharie Plank West. There are also two planned egress points to Western Avenue. Chairwoman Hext noted in the preliminary hearing on September 27th, 2022, that for a variance to be approved, the applicant has to prove that "there is no other way to do this, and this is not a self-created hardship...". Why can't the four lots use the two Western Ave egress points with the other planned houses?

3) Zoning Regulations 315-27 states that *no more than two access points into a subdivision are permitted*. Yet, the preliminary plan shows three proposed access points. Two egress points off Western Avenue and one egress off Schoharie Plank Rd West. Does the ZBA plan to authorize three access points for the proposed subdivision? Wouldn't the requested variance for access to Schoharie Plank Rd West violate zoning regulations specific to egress points for new developments?

4) Impact on existing water infrastructure on Schoharie Plank West: Three water main breaks have occurred on Schoharie Plank West in the past ten months. Has the village determined the impact of heavy construction equipment traffic on the existing water and sewer infrastructure? If so, what is the impact of additional road weight on the water main infrastructure?

5) FEMA Floodplain - **The homes on Schoharie Plank Rd West are in the FEMA floodplain.**

6) Schoharie Plank Rd West is 14 and 1/2 feet wide. This is not wide enough for emergency vehicles to pass one another on the road. Cars approaching from either direction pull over to allow another vehicle to pass or people walking.

7) No cut 20 - 25ft buffer zone: The applicant has said that he is willing to include a green buffer between the existing homes and the new construction. Please clarify. Is Troy Miller planning to plant a green buffer zone? Or is he leaving a no-cut zone for future home buyers to plant? This is important since we do not have a wooded line of trees between our yard and the open field. It could cost several thousands of dollars for us to hire a landscaping company to plant a buffer zone on our property.

8) Fire hydrants - There are fire hydrants in front of 109 and 117 Schoharie Plank West. However, the hydrant in front of #109 would require a fire hose to be dragged through the wooded area between the homeowner's property to reach lot #5. Otherwise, the hydrant in front of #117 would be the other available hydrant in the event of a fire. Does this meet NYS Fire Code?

Full Environmental Assessment Form - Part 1 Questions: D2: Project Operations We are interested in knowing the potential impacts of these issues:

c. *Will the proposed action use or create a new demand for water? Total anticipated water usage/demand per day: X gallons/day. Has the village done any projections of water usage for this subdivision? Village water capacity: Village trustees have stated the village has enough water to add another 3,000-5,000 gallons a day in demand. The average summer use is 220,000 gpd, and we have a capacity of 316,000 gpd. Demand was pushing 300,000 gpd this past summer - or 95% capacity. Has the village projected the water capacity needed to support the proposed subdivision?*

d. *Are there any facilities serving children, the elderly, and people with disabilities (e.g., schools, hospitals, licensed 9 Yes 9 No daycare centers, or group homes) within 1500 feet of the project site? The group home at 150 Western Avenue is within 1500 ft of the project site.*

e. *Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters, or other concentrated flows of stormwater) or non-point sources (i.e. sheet flow) during construction or post construction? If Yes: iii. Where will the stormwater runoff be directed (i.e., on-site stormwater management, facility, structures, adjacent properties, groundwater, on-site surface water, or off-site surface waters? Will the village engineer and Barton & Logidice, the engineering firm for the village require the applicant to a stormwater runoff plan to protect existing homeowners?*

L. *Hours of operation during construction. We request construction activities stay within the window: Mon - Fri, not before 7:00 AM, and no weekend construction noise.*

E.2. Natural Resources On or Near Project Site

d. *What is the average depth to the water table on the project site? The water table is very high on Schoharie Plank West. The architectural plans for the newly built home at 108 Schoharie Plank included a full basement; however, their architectural plans were redrawn after discovering the water table was so high that the home could not be built with a basement. It had to be built on a slab.*

m. *Identify the predominant wildlife species that occupy or use the project site: deer, fox, coyote, native birds*

o. *Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? It is a known fact that the Indiana bat is listed as an endangered species throughout the village of Altamont.*

h. *Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? The Bozenkill creek and park is a local scenic and aesthetic resource within five miles of the project site.*

Respectfully,
Deborah Marion-Katz
Mark Naginey

5/22/23, 8:29 AM

Mail - mnaginey@wradvisors.com

*113 Schoharie Plank Rd West
Altamont, NY 12009*

Ginger Hannah

From: Jennifer Betancourt <betancourtjen@yahoo.com>
Sent: Tuesday, May 23, 2023 8:08 AM
To: villageadmin@altamontvillage.org
Subject: Zoning Variance

I am writing to the Altamont Zoning board to voice my opposition for the requested variance of CM Fox living solutions.

I ask that the Village zoning board uphold the current zoning that has been set in place. There are zoning laws in place for a reason and to grant this variance negates the work and logic previously set forth when these zoning laws were adopted by our Village.

Developers should work within the parameters of our Village, not ask to change our zoning to suit their financial needs and rewards.

I am opposed to granting this variance. If a developer cannot work within the established zoning laws, they should develop a plan that works within the current Village structure of their zoning regulations.

Thank you
Jennifer Betancourt

Get [Outlook for iOS](#)

Ginger Hannah

From: Paul Betancourt <psbetancourt@yahoo.com>
Sent: Tuesday, May 23, 2023 12:22 AM
To: villageadmin@altamontvillage.org
Subject: Comments for Altamont Zoning Board Meeting - May 23, 2023 (Paul Betancourt)

Hello Ms. Hannah, and the Altamont Zoning Board, and Altamont Village Officials:
re: Comments for Zoning Board of Appeals Meeting on May 23, 2023

These comments are sent in advance of the Altamont Zoning Board meeting on Tuesday, May 23, 2023, as I am unable to be there in person. I am writing to emphatically express my *opposition* to the request from CM Fox Living Solutions, LLC, for area variances to allow the creation of four (4) new keyhole lots with approximately 16 feet of road frontage (ref: property identified as Tax Map #37.14.-3-6-1), where the minimum road frontage requirement is 30 feet for a keyhole lot.

Why should the Village Zoning and Administration grant variances to its zoning laws and ordinances just to allow the "shoehorning" of this new development into a space which requires such a drastic zoning variance to be granted? There is no reason that the Village should grant a variance in this situation as it is not in the public interest of the Village. Further, it will negatively and permanently impact the quality of life of the neighbors and neighborhood, as well as permanently upset the peaceful nature of the immediate neighborhood, all just to satisfy the current (and out of zoning compliance) development plan for this property.

You should not approve this variance for this "shoehorned" development, as Zoning ordinances are there for a reason and they are meaningless if they are not enforced. Zoning variances should be granted rarely and only under exceptional circumstances in the public interest, and this request for variance does not meet any reasonable approval standard and is not in the best interest or need of the Village and its residents. Please uphold high Zoning and Planning standards as part of our Village code, laws, and ordinances. I urge you not to become a village which is poorly planned and zoning is rendered meaningless.

I ask why this development corporation did not consider and respect Village zoning laws and ordinances in place when they purchased and planned development of this property. There is no reason that the Village Zoning Board (nor the Trustees and Mayor in future meetings) should seriously consider this request.

Thank you for your consideration of these comments.

Regards,

Paul Betancourt

Paul Betancourt
140 Lincoln Avenue
Altamont, NY 12009

m. 518.878.6940
e. psbetancourt@yahoo.com

Ginger Hannah

From: Heather Fox <hhskichic@gmail.com>
Sent: Tuesday, May 23, 2023 6:52 AM
To: Ginger Hannah
Cc: Ben Fox; Heather Fox
Subject: Zoning Board Meeting 5/23/2023
Attachments: ZBA letter.pages; Untitled attachment 00018.txt; IMG_5232.jpeg; IMG_5233.jpeg; Untitled attachment 00021.txt; IMG_5231.jpeg; IMG_6560.jpeg; IMG_6559.jpeg; IMG_6613.jpeg; Untitled attachment 00024.txt

Hello there -

My husband and I would like to resubmit the attached letter along with photos taken over the past year to be on record for the 5/23/2023 ZBA meeting.

The pictures of the huge hole in the ground on our front yard was the third water main break on our road in a 1 year period. The infrastructure underground is extremely old and fragile and the DPW guys are doing a fantastic job to fix the breaks when they happen but this street has really taken a beating over the past couple years. This old infrastructure can not sustain additional homes.

The photos of the delivery trucks are an example of how narrow our road really is and in case of an emergency, a fire truck or ambulance would not be able to get past these trucks as a second vehicle cannot even get past them. This is very concerning for not only the people that currently live on this street but if new homes are built and need to be accessed off Schoharie Plank Rd W we want to emphasize that this road is not built for additional traffic as it currently exists.

Please add the attached letter that was submitted back in October 2022 along with this email and additional photos.

FROM THE RESIDENCE OF
BENJAMIN AND HEATHER FOX
115 SCHOHARIE PLANK RD WEST, ALTAMONT NY 12009

October 23, 2022

Village of Altamont Zoning Board of Appeals
P.O. Box 643
115 Main Street
Altamont, NY 12009

RECEIVED
OCT 24 2022
Village of Altamont

Dear Members,

As Village residents residing at 115 Schoharie Plank Rd West we share our concerns below about the purposed development submitted by Stephen P Walrath L.S. on behalf of Troy Miller (139 Western Avenue - Tax Map ID No. 37.14-3-6.1). It's our hope that as our Village leaders, you will discuss these concerns amongst yourselves and have further analysis conducted on any particular point if a clear answer for addressing the concern is unknown.

Schoharie Plank Road West

The street we live on was not designed or constructed to the Village or Town standards for a "standard public street" size. It's much narrower and likely does not have the sub base and top level pavement construction which a "standard public street" would have. It is a size commonly called a "carriage road" by developers and towns in New York State.

Because of its smaller size and construction, fourteen feet across as opposed to the two lane road or the standard twenty-four feet identified in the Concept Plan submitted by Mr. Walrath, our "carriage road" can not handle large site development construction trucks, trailers and/or bulldozers. In a recent home construction with access to Schoharie Plank Rd West, the builder left the construction equipment trailer on the road which caused the residents to have to steer our vehicles across portions of our neighbors yards to get by the trailer. If an emergency vehicle, especially a fire truck, needed to travel down our street during the day long storage of the construction equipment on the road, it would have been a real challenge to get around the trailer. Our street is so narrow, that passing cars must go very slow so not to hit each other. Additionally, after construction is completed, it would be near impossible for a large emergency vehicle to turn onto the shared driveway proposed in the Concept Plan between 115 and 117 Schoharie Plank Rd West.

The children who live on our "carriage road" ride their bikes, scooters and walk on the street daily. Additionally, hundreds of Altamont residents and families take leisurely walks along Schoharie Plank Rd West and cross the pedestrian bridge to Euclid and other village streets. It is very common for vehicles traveling down our road to go very

slow to accommodate the walkers on the pavement as there are no sidewalks. This regular ability to utilize the road would be significantly impacted if large construction trucks and equipment were to be driving down our "carriage road" early morning to late afternoon during the long construction period of the proposed development.

Village Infrastructure

The water supply line along Schoharie Plank Rd West has experienced a number of breakdowns over the last few years including two major main water breaks. Has the Village's engineers performed an analysis of the size, condition and additional volume requirements the proposed development would have on the Village's water and sewer infrastructures? What would be the impact on our water supply?

Storm-water Runoff

If the ground elevation of the proposed development was to be raised above the current field elevations, then it's conceivable that during storm events, surface runoff could flow onto the backyards of the residents along Schoharie Plank Rd West. Has the Village's engineers reviewed the site plan design of the proposed development to ensure it meets NYSDEC standards for storm water runoff control? We understand a key factor of the State's regulations is that the release of storm water to the downstream environment not exceed the current (undeveloped) site's volume for a given storm event. It is very important to us as existing Village residents, that our property will not be impacted in any additional form from storm water runoff of the proposed development. We bring this particular point to your attention because the Concept Plan submitted by Mr Walrath does not identify any drainage mitigation efforts on the developers behalf.

Impact on Adjacent Properties

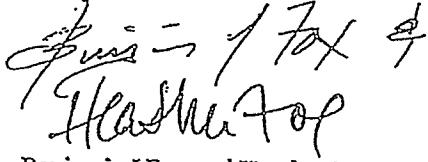
The access option provided in the Concept Plan identifies placing a shared driveway between 115 and 117 Schoharie Plank Rd West. Being intimately familiar with this piece of property, how does the developer plan to complete any construction without impacting the subjacent support that currently provides structural support for the residences at 115 and 117 Schoharie Plank Rd West? Additionally, how does the developer plan to complete this construction without impacting our property? We look forward to seeing an updated, accurate, to scale site plan addressing these concerns.

Alternative Access Option

We recommend the Village direct the developer to explore and utilize an alternative access route starting from Western Avenue for the construction of the proposed development if the project is satisfactorily meeting the other infrastructure impact concerns raised above. This alternative addresses our significant concerns related to the use of our small size "carriage road" by construction equipment, the ability for emergency vehicles to have the best access available given the road's size challenges, the capability of village infrastructure, the altering of a flood plane, and the impact on adjacent residences.

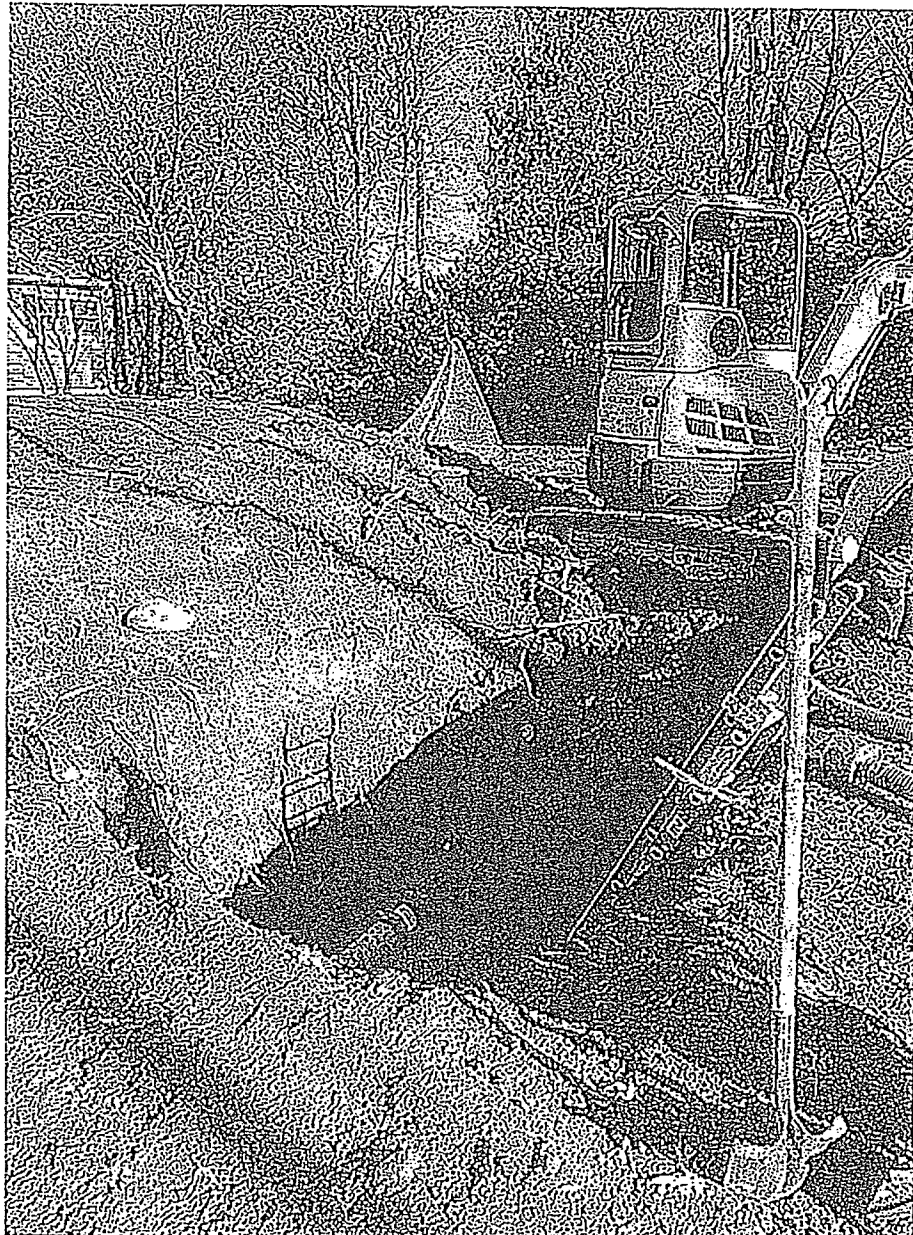
We welcome to meet with the Village's leadership to follow up on our concerns and comments before any decision is made to approve this project without addressing our comments.

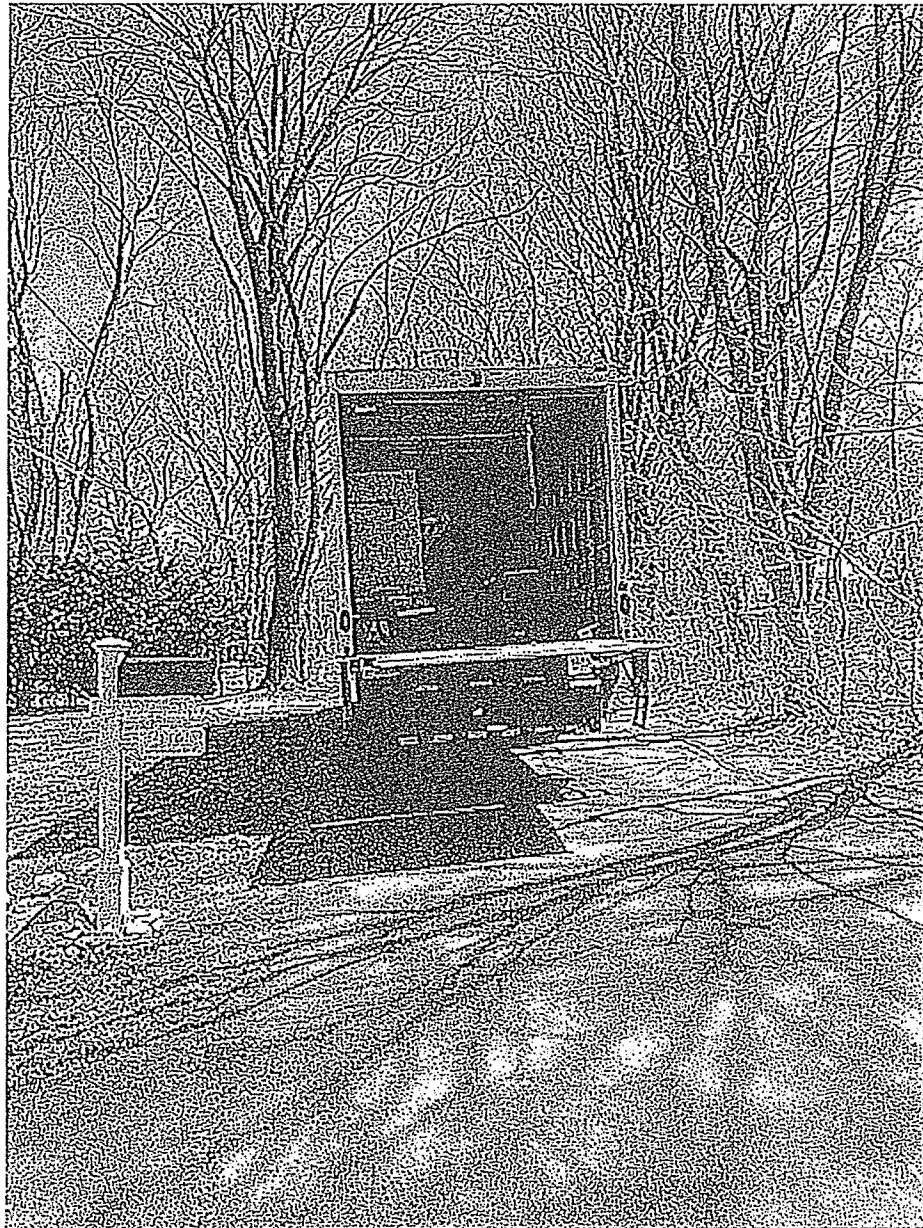
Your Neighbors,

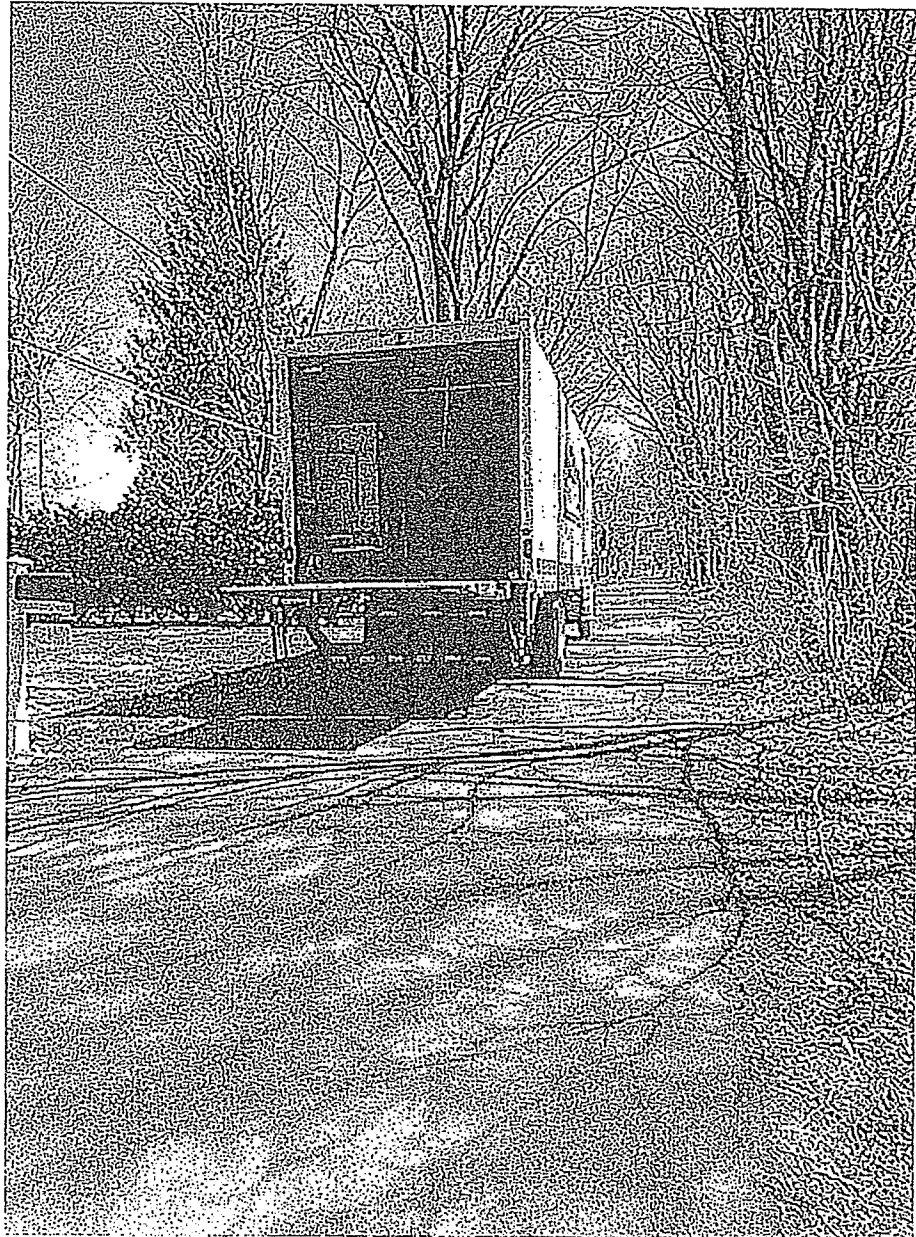
Handwritten signatures of Benjamin J. Fox and Heather Fox. The signature for Benjamin J. Fox is written in a cursive style, and the signature for Heather Fox is also in cursive.

Benjamin J Fox and Heather Fox

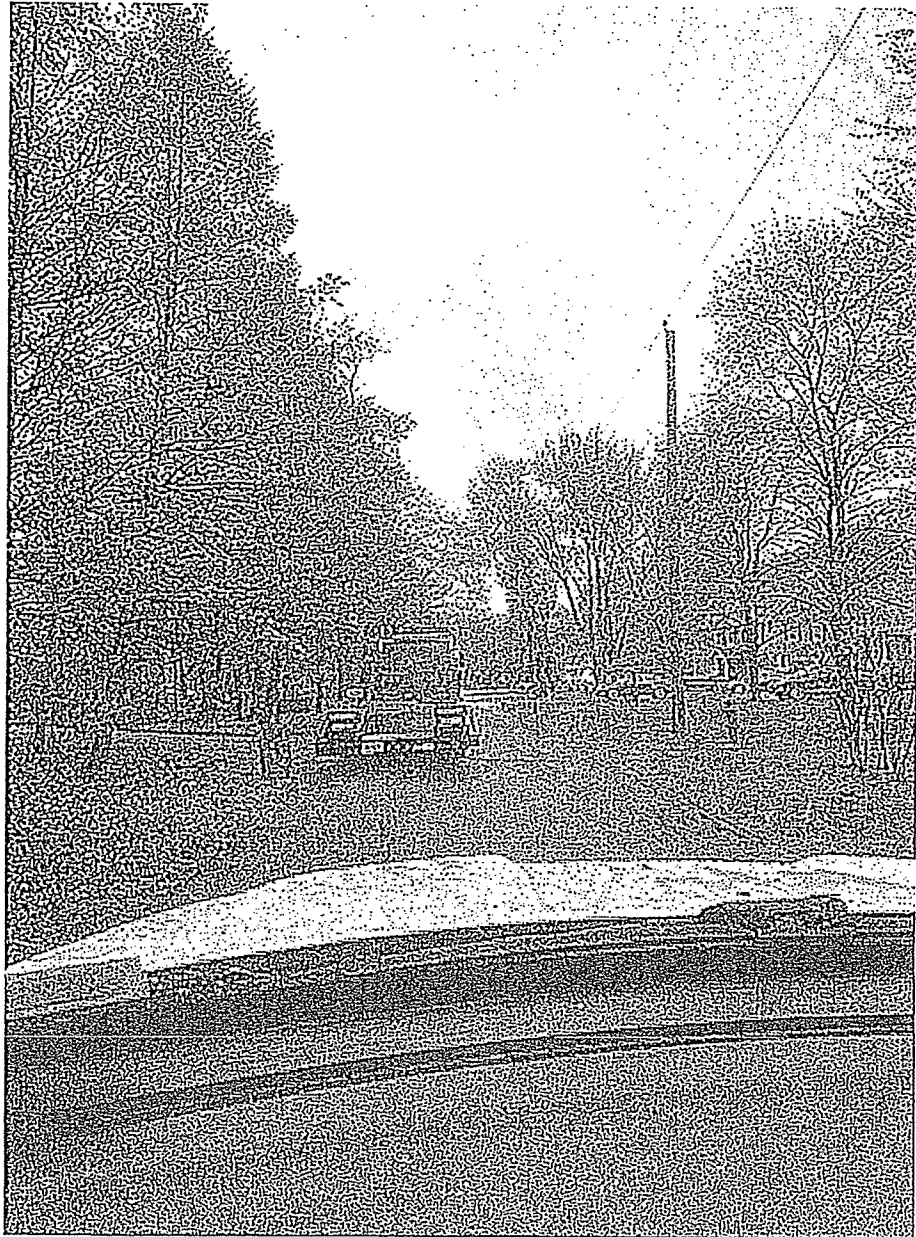












JOSEPH AND JAYA CONNORS
6393 GUN CLUB ROAD
ALTAMONT, NEW YORK 12009
(518) 669-2517; (518) 669-0850

May 23, 2022 *3 pm*

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

Dear Members:

Thank you for this opportunity to share our opposition to the request of CM Fox Living Solutions for a significant variance which would allow its property identified as Tax Map #37.14-3-6.1 to be subdivided into 11 lots over 13 acres. Our objection focuses on the issue identified in the mailed notice we received, whether the Board should grant area variances to allow the creation of four(4) new keyhole lots with approximately 16 feet of road frontage on Western Avenue. We reserve the opportunity to oppose other parts of the subdivision proposal at a separate public hearing noticed for that purpose.¹

I. INTRODUCTION

We own and reside at 6393 Gun Club Road, adjacent to the proposed subdivision. The Guilderland/Village of Altamont town line passes through our property. We pay both Town and Village taxes and utilities. We are glad to be active in Altamont life, including being members of Altamont Community Tradition. The village's small friendly size and its rural country setting were important to us when we moved here several years ago and they remain so today.

Our 5.6 acres property currently has unobstructed views of the Helderberg Escarpment. We enjoy the abundant wildlife that crosses through our country property and the adjacent property subject to the variance request. We have observed deer, opossum, racoons, turkey, fox, and coyote on both properties, as well as an abundance of other birds, including Bluebirds and Indigo Buntings. Significantly, bats, including what we believe from their appearance to be endangered Northern long-eared bats, are frequently seen flying over both properties. We walk our property mindful that it and its adjacent property are part of lands which were stewarded by Native Americans from the Mohican and Mohawk tribes. We also report based on personal observations that water often pools throughout the subject property, year round. The property is consistently muddy, with footprints of the wildlife who currently call it home.

¹ For example, the applicant has not applied for a variance that would allow for multiple entrances to subdivision homes, in excess of the two entrances allowed by Village Zoning Law. Although the application for final plot approval cannot be approved by the Board without such a variance and other variances applications, the applicant has not sought them and they are not thus not currently before the Board.

Proposed Lots 1 and 2 and 3 and the referenced four- bedroom houses the applicant developer plans to build on them, will directly adversely impact our enjoyment from and value of our property. Indeed, any backyard lights from houses on Lots 1 and 2 will likely shine directly into our bedroom and living room.

Our objections to the proposed variance should not be dismissed as a literal "Not In Our Backyard" concern. Rather, it is founded in well established legal precedent which balances the interests of adjoining neighbors, expecting them to enjoy their properties while respecting the limitations imposed on land use by law. The requirements discussed below are not new, they were present when CM Fox Living Solutions , a sophisticated buyer, purchased the property adjacent to our property. They did so knowing that its residential use was limited by existing zoning and environmental laws and regulations. It would be unreasonable and set a dangerous and unfair precedent to allow a substantial variance from these requirements to allow a preferred but unauthorized use of the subject property. We respectfully request that you exercise your administrative role in an objective manner and conclude that there is insufficient evidence to support the variance requested.

II. PROCEDURAL HISTORY

We appreciate the opportunity to actively participate in the May 22, 2023 public hearing for the first time to share our concerns concerning the variances application before the Board. On or about May 12, 2023 we received notice of this public hearing via a letter mailed to our home. We understand that the Board has engaged in previous discussions with the developer applicant, CM Fox Living Solutions, LLC on September 27, 2022, January 4, 2023, March 28, 2023. The public was not allowed to participate in these "hearings." In the interests of a complete record of the May 22, 2023 public hearing we request that the video recordings and transcripts of the September 27, January 4, and March 28, 2023 Board meetings be preserved and made part of the record at this hearing.

These prior meetings indicate that the developer applicant at first conceded that it needed a variance for the keyhole access to Lots 5, 6, 7, and 8 on Schoharie Plank Road, but no longer seeks this variance following private line adjustments deals with landowners. The developer applicant still seeks a variance which would allow for only 16 feet of road frontage for keyhole lots 1, 2, and 3 on Western Avenue, almost half of that required by the Village Zoning Law. The Board Chair characterized this as a request for a "significant variance." In past appearances before the Board, the developer applicant also promised a 20 to 25 foot buffer between the new houses and the houses on Schoharie Plank Road, with Board members also suggesting a no cut zone. The Board shared that an independent Village engineering plan was necessary to consider the proposal.² The Board was concerned about the width of the access road/driveway in light of safety planning and the size of emergency (fire) vehicles and snow removal vehicles. A Board Member suggested that a crosswalk to connect the new proposed subdivision to the existing sidewalk on Western Avenue might be appropriate. The applicant developer promised to provide a sight assessment evaluation from the proposed entrance road/shared driveways in response to concerns raised by the Board.

Significant concern and questions were raised concerning historic flooding on Schoharie Plank Road. A Board Member inquired, "Where is the water going to go?," and "How do we maintain existing

² Such a plan, if completed, has not been made available to the public in connection with the scheduled May 23, 2023 hearing.

flows?" The applicant developer promised groundwater testing to assess the level of the water table in order to properly plan for stormwater impacts. A Board Member suggested individual stormwater containment systems as opposed to a general area that might be prone to cattail growth.

Finally, one Board Member pointed out that Guilderland's noise ordinance should be followed; it prohibits work on weekends and limits it to 7:00 a.m. to 6:00 p.m. on weekdays, while another reminded the applicant developer that light nuisance would also be a part of the Board's consideration.

In light of the Board's growing concerns, the Applicant Developer responded that "the only other option" would be to increase the number of houses to "22 or 24 lots" in the project, and build a cul-de-sac which the Village would be responsible for maintaining. The Board encouraged the developer applicant to supplement the record, reminding it that it had the burden of showing that the requested variance was necessary and that the proposed project would meet all applicable laws, including a State Environmental Quality Review Act assessment that the project would have an overall negative impact.

II. OVERVIEW OF THE LEGAL PARAMETERS FOR THE BOARD'S CONSIDERATION

The Village of Altamont Zoning Board of Appeals ("the Board") has the power, authority, and responsibility to approve or disapprove plats for subdivision within the Village of Altamont. Village Law §§315-1, 315-5. Before granting a request for a variance in support of a request of an application for subdivision, the Board must have evidence that the proposed subdivided land can be used safely for building purposes without: danger to health and safety or peril from fire, flood, erosion, or other menace; proper provision for stormwater drainage; insult to ^{tenets} tenants of the Village of Altamont Comprehensive Plan; harm, to the extent avoidable, to trees, flood courses, historic sites, and environmentally sensitive areas; or violation of the Zoning Law of the Village of Altamont. Village Law §§315-3, 315-21. Special regulations apply to any proposed subdivision of land into three or more lots, which by definition is a "Major Subdivision". Village Law Section 315-8.³ While an applicant may request waiver of requirements for subdivision of its land, the Board may not act contrary to the intent of Village of Altamont Zoning Law or the State Environmental Quality Review Act (SEQRA). Village Law §315-23.

The Board's consideration of "Keyhole lots, properties that access the property behind another fronting the street" must comply with Chapter 355 of the Village of Altamont Zoning Law. Village Law §315-27. A keyhole strip leading from the road to another property must be at least 30 feet wide. Zoning Law 355-5. The Village also requires 30' of frontage for properties accessed in a subdivision by a keyhole lot. The New York State Fire Code requires unobstructed access width of 20 feet, exclusive of shoulders, for fire apparatus access. New York State Fire Code §503.2.1. The Village's Fire Code Official can require greater width if necessary for adequate fire or rescue operations, consistent with public safety planning. New York State Fire Code §503.2.2. The Fire Code Official, presumably the Chief of the Department, also has authority to determine the required turning radius for a "fire apparatus access road."⁴

³ Some parts of the pending application for a variance in support of approval of the subdivision incorrectly refers to the proposal as one for a "Minor Subdivision," one containing not more than two lots.

⁴ Pursuant to Section 202 of the Fire Code, a fire apparatus access road is "a road that provides fire apparatus access from a fire station to a facility, building, or portion thereof. This is a general term inclusive of all other terms such as fire lane, public street, private street, parking lot lane and access roadway."

The Board, when considering an application for a subdivision of land must consider whether the proposed subdivision's "circulation system," including streets, sidewalks, and pedestrianways meet specific standards. A "street, private" is defined by the Village Law as "a private thoroughfare or right-of-way, dedicated or deeded for use as such, which provides access to abutting properties from a public street." Village Law §315-8. Private streets such as the two proposed in the subdivision application, one to allow access via Western Avenue to three lots (#1, 2, 3), and the other to connect four lots (#5,6,7,8), must have continuous sidewalks at least five feet wide. Streets must conform to the Comprehensive Plan and have adequate access for firefighting, snow removal, and other maintenance equipment. Shade trees are required along each side of all streets, public or private, ten feet from the sidewalk.⁵

The Village Zoning Law also instructs that subdivision proposals for more than two entrances onto public roads shall be discouraged if they unnecessarily disrupt traffic flow or unduly impact the environment. Zoning Law §355-27(F)(1)(b).

A stormwater prevention plan (SWPPP) consistent with the requirements of Chapter 308 and Chapter 355 is required for any preliminary or final subdivision plat approval. Village Law, Chapter 315. All activities subject to review by the Board shall be reviewed the Village's designated Stormwater Management Office to determine compliance with the requirements of Chapter 308 of the Village Law pertaining to Stormwater Management. This process, which, at the Board's discretion, may include review by a professional engineer to meet all applicable standards, addresses ways in which to minimize stormwater rates and volumes in the public interest to minimize threats public health and safety. It includes Program Assessment, Record Keeping, Reporting and Certification Requirements in conformance with the requirements set forth in the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges., Permit No. GP-0-15-003, issued pursuant to Article 17, Titles 7, 8, and Article 70 of the Environmental Conservation Law.

III. OPPOSITION TO REQUESTED VARIANCE

A. In Their Current Version Before The Board, The Requested Variances Will Produce An Undesirable Change In the Character of The Neighborhood and A Detriment To Nearby Properties.

The surrounding neighborhood to the adjacent property, especially along its Northern perimeter is characterized by single family homes on large lots of several acres. Consistent with the rural nature and country setting, houses are spread apart. The proposal will add eleven houses in a density profile which is inconsistent with the complexion of the rest of the neighborhood. Many of the houses on Gun Club Road or Marion Court which border the proposed project are multiple acre country lots with one home. The border between Guilderland and Altamont should not be riddled with so many new houses in such a small area. The developer's threat to increase the number of houses it will build is unavailing because that, too, would be inconsistent with the character of the neighborhood. *See Pecoraro v. Board of Appeals of the Town of Hempstead*, 2 N.Y. 3d 608, 781 N.Y.S.2d 234 (2004)(upholding denial of variance where the variance would have reduced the requires frontage from 55 feet to 40).

⁵ Of note, the Village Law does allow the Board to approve a "combined access drive" so that lots do not require access exclusively from a "major street." Village Law §315-27. Regardless of whether they are deemed a "private road" or a "combined access drive" these access pavements must be wide enough to meet safety and health concerns and consistent with the minimum widths set forth in the Fire Code.

B. The Applicant Has Alternative Methods Available To Achieve A Housing Subdivision or Obtain Alternative Value For His Property.

Denying the variance will not leave the applicant/developer without options concerning the property. The property can still be used under existing regulations for a reduced number of houses. Neighbors, including us, may be interested in purchasing undeveloped property which never was posted with public signs as being for sale. Finally, the property could be sold to Conservancy organizations to protect a green belt around the village, perhaps linking this property to existing hiking or recreational trails.

C. The Requested Variance Is Substantial, In Essence Requesting The Board To Rewrite Existing Code Standards.

This is not disputed. The request variance would require the Zoning Board to in effect rewrite its own regulations and reduce the frontage required for a keyhole lot in a subdivision in half.

D. The Proposed Variance Will Adversely Impact The Physical and Environmental Conditions In The Neighborhood.

As alluded to, existing wildlife will certainly suffer as a result of the proposed variance and its increased construction. Neighbors have also raised significant concerns about stormwater management, traffic safety, and lighting nuisance. We walk in the area frequently and have serious concerns about pedestrian safety on the streets which are in the proposal's immediate area. Especially with the nearby draw of Bozenkill Park, the Board needs to protect the interests of children who might be walking from the new development to the park. We reasonably fear that without adequate sidewalks, this is a disaster accident waiting to happen. Significant concerns have also been raised concerning the access abilities of emergency and snow removal vehicles to homes in the proposed subdivision. There is sufficient reason that the property could contain items of archeological and cultural significance, other such items having been found in our region. The applicant developer has failed to meet its burden by answering these concerns, instead, at best, repeatedly promising in its May 9, 2023 letter to the Board that these important questions will be answered "upon variance approval." See Responses to Request #5, 6, 9, 11, 14, 15, 16, 20, 21.

E. The Applicant's Obstacle In Subdividing His Property For Development of Eleven Lots Is Self-Created.

The applicant developer knew about the zoning restriction and limits on keyhole lots when it purchased the property. It cannot reasonably expect the Board to simply change its own regulations and allow additional housing with only 16 feet as opposed to the required 30 feet of frontage. The resulting damage to the neighborhood and community from such an ill-advised decision would be great as would the public's faith in the objectivity of the Board in exercising its administrative function.

IV. ALTERNATIVE POSITION

For all the reasons discussed above, the Board should deny the requested variance before it. In the unlikely event that the Board grants the variance and this project proceeds, we respectfully request that the Board direct the applicant to mediate the damage to our property and similarly situated

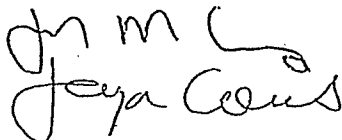
properties by constructing a berm along the Northern borders of the project, with conifer evergreen trees planted on top to protect our view from this new construction.⁶

The Board should also require the applicant to complete a complete Stormwater Abatement Plan which includes record keeping and post construction monitoring, as well as an Archeological Assessment of the property, especially for protocols for identifying and protecting artifacts of its indigenous stewards. The Board should require the applicant to provide a factual basis for its estimate that less than 5 acres of soil will be disturbed in the proposed construction process.

Consistent with reciprocal practice, the Guilderland Zoning Board should be afforded the opportunity to consider the implications of this variance proposal on its community, and Albany County and the New York State DEC should be involved in a completing an environmental impact statement concerning this proposal, with special attention to the wellbeing of the endangered log-eared bats who thrive on the property.

Thank you for your consideration of these comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J M C" above "Jaya Connors". The signature is fluid and cursive.

Joseph M. Connors
Jaya Balu Connors

⁶ The existing tree line along our property is insufficient for this purpose. In the first instance, there are no evergreens to protect us in the Winter when the leaves fall off our existing trees. Further, many of the existing trees are dying and will not provide the privacy barrier needed to ameliorate some of the impact of this project.

May 23, 2023

Altamont Zoning Board of Appeals
115 Main St.
Altamont, NY 12009

Letter of Concern for Proposed Creation of 4 Keyhole Lots

I'm writing to voice my concern on the proposed variance request to create 4 new keyhole lots by CM Fox Living Solutions.

1. One of the Village of Altamont's (the Village) water sources is located on Gun Club Rd, approximately 1,000 feet from the proposed site and approximately 50 feet from a water source that passes within 200 feet of the proposed building sites. The Village of Altamont's Annual Drinking Water Quality Report for 2021 states that:

"...The aquifer that Altamont draws its water from is considered a high yield aquifer. Contaminants, if present, can move relatively quickly in high yield aquifers. Therefore, this well has been assigned a high sensitivity rating..."

Accompanying the variance application was a report from Stephen P Walrath, L.S. Point 19 of this report states:

"Site was evaluated for wetlands by William H. Smart, P.E. in October 2022. No wetlands were found on the project site."

This says nothing about the environmental impact of stormwater runoff from the proposed sites or the impact that it will have on local water sources and tributaries. Has the property owner, proposed builder, and requestor of the variance conducted an independent water study to determine the impact that this variance will impact the Village's water source? Has the Village of Altamont Zoning Board of Appeals (ZBA) properly reviewed what effects new construction runoff, changes in landscape and grade will have on an already at-risk water source?

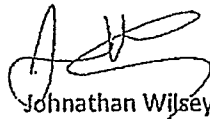
2. According to the Environmental Protection Agency, radon is an odorless, invisible, radioactive gas naturally released from rocks, soil, and water. Radon can get into homes and buildings through small cracks or holes and build up in the air. Radon is the leading environmental cause of any cancer. And is the second leading cause of lung cancer, after smoking². Has the ZBA considered how new construction will change the environmental landscape, potentially clogging naturally occurring cracks and vents in the ground and forcing radon into current houses? Has the ZBA discussed with residents what sort of radon mitigation systems would be provided if hazardous levels of radon start to form inside homes located near the sites outlined in the proposed variance? If not, these must be explored before the approval of any variance.

3. There is a significant safety concern with the width of Schoharie Plank West and the increased traffic that will be using it with the approval of this variance. Has the Village and ZBA provided residents

with a comprehensive EMS servicing plan for Schoharie Plank Road West? While this may not be a governmental requirement, it will become a governmental issue if there is an emergency that can't be properly addressed and the Village and ZBA have not explored how that road's current use will change based on increase traffic. The Village has, by having a foot bridge that connects Schoharie Plank Road West and Euclid Avenue, made it abundantly clear that the Village encourages residents to use these two roads for walking. How does the Village plan on keeping residents safe while using these two roads for what the Village has encouraged to be their intended purpose? During the recent construction of a home on Schoharie Plank Road West, the street was blocked by large construction vehicles which compromised the safety of pedestrians and drivers on that road. How does the Village and ZBA plan on making sure that this is not another issue for this proposed variance?

This isn't just a few new homes going up in a vacant field. This is a significant development of new construction which will directly impact local tributaries and the Village's water source, current residents, and our safety and well-being. I implore the Village and ZBA to thoroughly inspect and inquire about the long-term, unintended consequences of this development and not the potential increased tax revenue.

Sincerely,



Johnathan Wilsey
12 Gregg Rd.
Altamont, NY 12009

¹https://www.altamontvillage.org/sites/g/files/vyhlf246/f/uploads/annual_drinking_water_quality_report_2021.pdf

² <https://www.cdc.gov/nceh/features/protect-home-radon/index.html#:~:text=Radon%20is%20an%20odorless%2C%20invisible,radon%20can%20cause%20lung%20cancer.>

RECEIVED

June 1, 2023

JUN 06 2023

Dear Zoning Board Members,

Allege of Harassment

I will be unable to attend the June 28, 2023 meeting in person so I am writing to express my concerns regarding the variances being requested for the development of land bordered by Western Avenue and Schoharie Plank Road West, sitting behind existing residences.

We have established zoning ordinances defined to protect the community's various assets and people's investments. These regulate types of businesses and their locations, set back definitions, road and sidewalk dimensions and various other criteria. Much of this zoning is to protect existing properties and to maintain both the visual and infrastructure aspects. Development is to adhere to the existing zoning criteria and definitions. Variances should not be granted on weak or self-centered objectives without a very cautious reflection on the impact to the immediate surroundings, adjoining owners, or the village's long-term planning and existing infrastructure capacities. Once a variance is granted it provides a basis for future requests to be approved regardless of potential negative impacts as voiced when a variance is granted.

We are now confronted with a local developer who purchased land to develop. He went into that purchase transaction knowing and prior experience with the current existing local zoning and restrictions. And now after purchase he is applying for a variance in order to maximize his return on investment. Sort of a cart before the horse situation.

Because the existing property boundaries do not meet existing requirements to establish a street (or road) due to existing boundary (width) size the developer is in essence attempting to circumvent those defined zoning limitations by calling a street a driveway and allowing multiple dwellings sole access by on that one very narrow parcel.

Now I do not know about everyone else in the village, but I have observed that it is rare for three people to continually agree to anything, especially when it comes to money and maintaining one common resource. Such as a driveway. As maintenance is impacted and declines there would be a negative impact to the properties adjoining that narrow strip of land. Damages will most likely be incurred and expenses built up.

I urge the request to allow a common driveway (I really want to call it a street) be denied. In future years there will be expenses to others beyond those home owners sharing that common drive, either by the adjoining property owners or the village, that may end up accepting an *additional* variance and allow that "driveway" be transferred as a street and the village have to maintain it.

There is an existing simple solution to all of this and the concerns voiced by others. Let the free market forces take over. Instead of granting the variance request so the developer maximizes profit on land he knew had predefined limitations, let him purchase one of the adjoining properties thereby allowing him to tear it down and widening the existing boundaries such that a proper street or road can be built to clearly defined standards. Sure it will cost him more. That is not my or the villages concern. A second solution would be to require a formal Home Owners Association established to maintain the shared property and infrastructure. That latter should be written to protect the village and neighbors.

I can not fault the developer for attempting to do this build out as inexpensively as possible. But it should not fall upon the entire village to compromise at its expense for his gain.

Respectfully,
Sam F Crosby
cc: Altamont Enterprise

Attn: Village of Altamont Zoning Board

3/23/23

5/16/23

In the case that a right-of-way access in the flood plain causes property damage to adjacent landowners, how will neighbors be held harmless for damages?

Regardless of force majeure and/or naturally caused damages?

In other words, no loopholes.

Deborah L Johnson
Deborah L Johnson

RECEIVED

MAR 24 2023

Village of Altamont

May 15, 2023

Dear Zoning Board Members,

I'll be unable to attend in person. I do want to have the following issues addressed publicly and entered into the record for this variance.

Concerns:

- 1) Flooding: Have flooding issues been re-addressed with new frequency of 100-year floods? Has recent flood data been incorporated in the flood plain regulations of all jurisdictions?
- 2) Are there infrastructure upgrades to the water system since the water main break last year?
- 3) Will the road width meet the criteria for:
 - a. School bus transportation
 - b. Garbage pickup
 - c. Snow removal
 - d. Mail and package delivery
 - e. Two-way residential traffic
 - f. Sidewalks

What recourse do we have if we are harmed by this action?

For the above concerns, I am against this action.

Sincerely,



Deborah L. Johnson and Kim L. Johnson

117 Schoharie Plank Road West

Altamont, NY 12009

RECEIVED
MAY 16 2023
Village of Altamont

