

ALTAMONT ZONING BOARD OF APPEALS

Regular Meeting Agenda

April 12, 2022

1. Open meeting – State time and that the meeting is being recorded. Also ask speakers to come up to and speak into the microphone.
2. Topic & Discussion: Decision on Request by John Polk and Rebecca Stump for Use Variance to allow for chickens at 101 Bozenkill Rd.
3. Review of meeting minutes of 2/8/22 ZBA Meeting. Consider Motion to approve.
4. Review of meeting minutes of 9/28/20 ZBA Meeting. Consider Motion to approve.
5. Other Business: _____

6. Consider motion to adjourn meeting. Meeting Adjourned at: _____

Village of Altamont

P.O. Box 643 Altamont, NY 12009
Telephone (518) 861-8554 Fax (518) 861-5379

Checklist for Variance

Return to:

Village of Altamont
PO Box 643 115 Main Street
Altamont, NY 12009
(518) 861-8554 Ext 13

Fees:

\$ 300.00 Commercial
\$ 50.00 One Family
\$ 100.00 Two Family
(Payable at time of Submittal to Village)

APPLICANT INFORMATION:

Name: John Polk and Rebecca Stumpf

Address: 101 Bozenkill Rd

Daytime Phone #: 217-369-0124

Date: 11/11/2021

PROPERTY INFORMATION:

Owner: John Polk and Rebecca Stumpf

Location: 101 Bozenkill Rd

Tax Map #: 37.09-1-11

Zoning: R-20

Acreage: 19.5

Request for a: ☒ Use Variance ☐ Area Variance

TO BE SUBMITTED

:

- 1) 10 copies of application
- 2) 10 Copies of conditional purchase contract or rental agreement if applicable
- 3) 10 copies of project narrative containing the following: reasons which necessitate the need for a variance including a brief detailed description of the project
- 4) 10 copies Architectural drawings of proposed project
- 5) 10 copies of survey or plot plan (including a North Arrow) showing proposed project with
 - side setbacks
 - front and rear setbacks
 - all existing buildings
 - location of proposed construction
 - total size of parcel
 - all topographic elevations necessary to show proposed variance
- 6) 10 copies completed SEQRA

OTHER AGENCY APPROVALS OR RECOMMENDATIONS AS REQUIRED

- 1) NYS Department of Transportation 765-2841
- 2) Albany County Health Department 447-4631
- 3) Albany County Planning Board 447-5660

2) Purchase contract not applicable since the property will not change owners

3) Project Narrative:

Dear Zoning Committee:

We are requesting a variance to permit us to house six chickens on our 19.5 acre homestead. We will only keep hens and no roosters. Hens are clean, quiet, and their eggs provide an important source of protein for our family. Chickens help to eradicate ticks and contribute to Altamont's agricultural heritage.

The chickens will be located within a coop located adjacent to our garage in the center of our property which is surrounded by acres of woods and quite a distance from the road and neighbors with several hundred feet of setback.

The containment area will be kept well maintained and cleaned regularly. Hens will be safe and have fresh water and food daily.

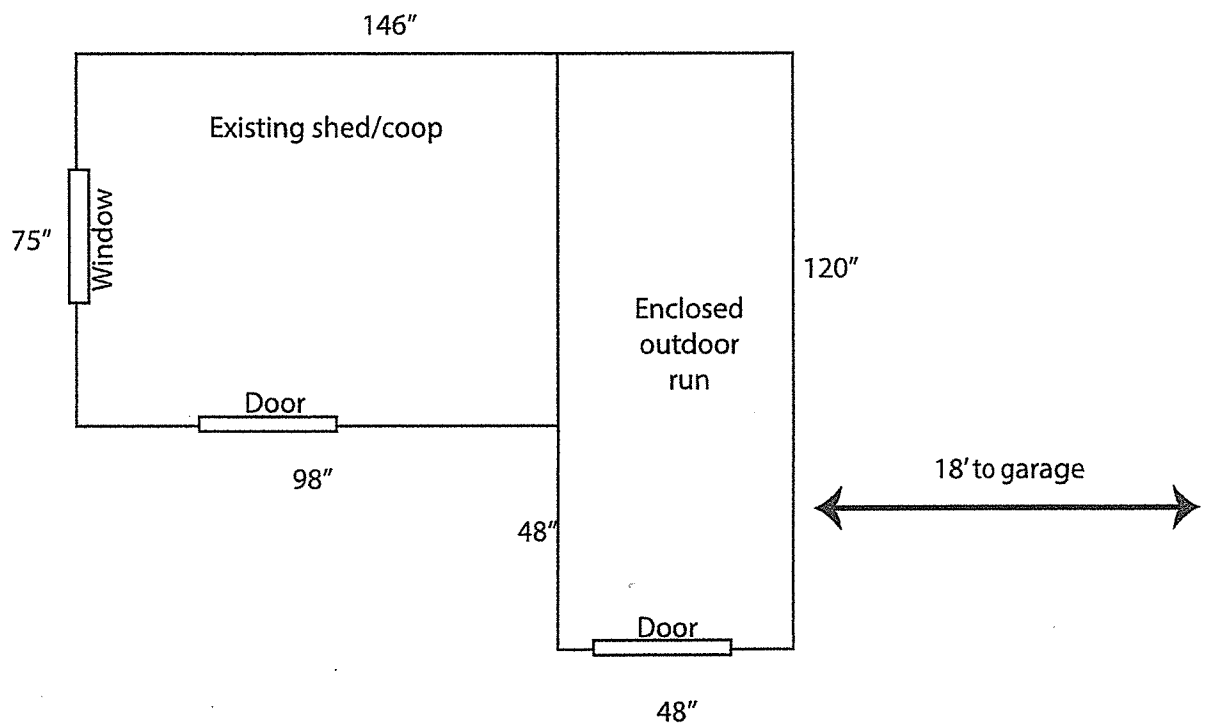
Please let us know if you have additional questions or need additional information.

Sincerely
Rebecca Stumpf and John Polk

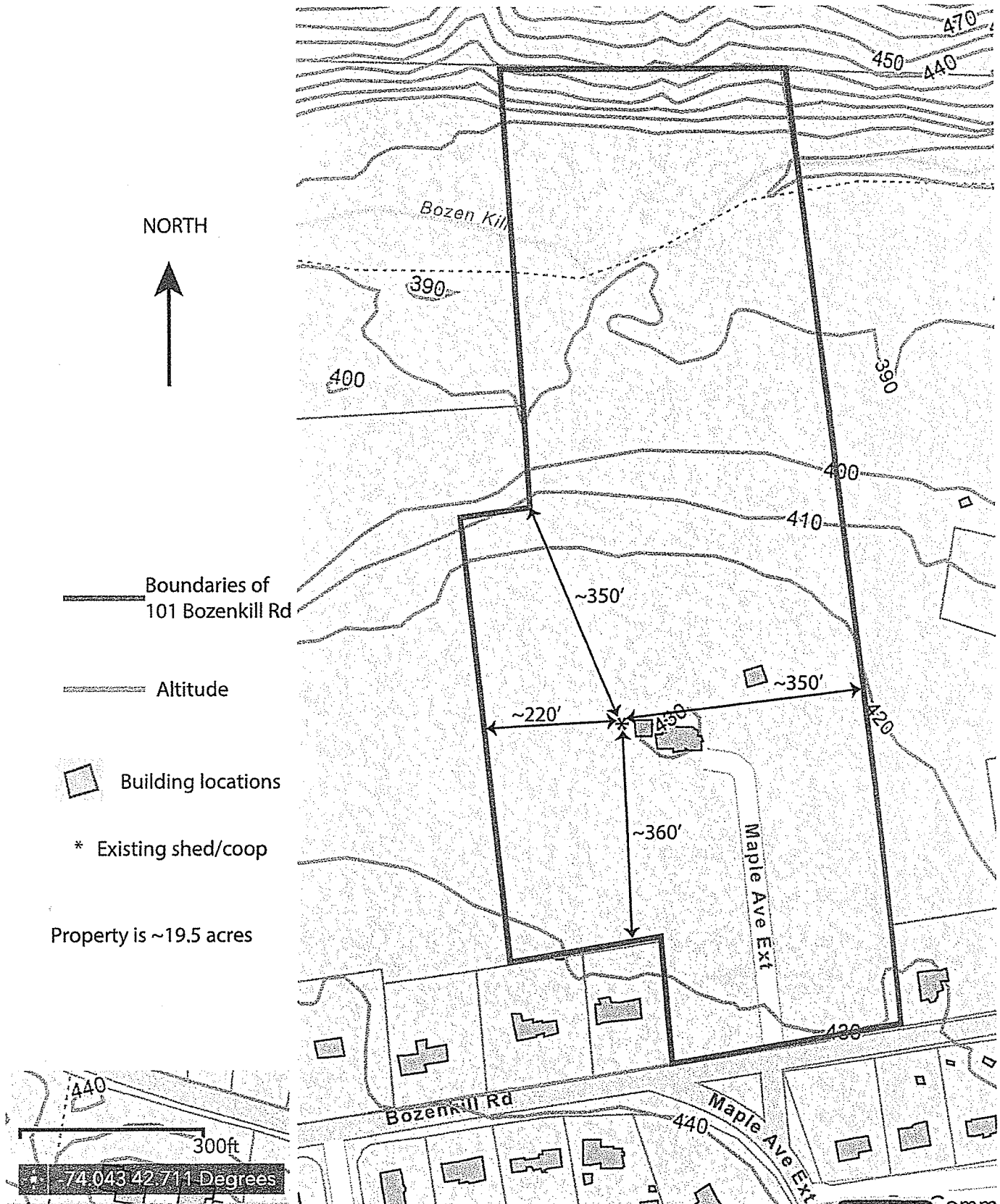
4) Architectural Drawings of existing shed/coop.

No new construction or building is necessary.

North



5) Plot plan derived from Albany County Interactive Mapping



6) SEQRA

This project is exempt from SEQRA as it is a listed Type II activity in section 617.5. Specifically, following 617.5(b) this project

(1) ... has no significant adverse impact on the environment based on the criteria contained in section 617.7(c) of this Part; and

(2) is not a Type I action as defined in section 617.4.

Furthermore, 617.5 (c) specifies that "The following actions are not subject to review:" ...

(4) agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming; and

(21) minor temporary uses of land having negligible or no permanent impact on the environment;

Short Environmental Assessment Form

Part 1 - Project Information


Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

| | | | | | | | |
|---|--------------------------|----------------------------------|---|----|-----|-------------------------------------|--------------------------|
| Part 1 - Project and Sponsor Information | | | | | | | |
| Name of Action or Project: Request to house Chickens at 101 Bozenkill Rd., Altamont | | | | | | | |
| Project Location (describe, and attach a location map): 101 Bozenkill Rd. Altamont, Ny, 12009 | | | | | | | |
| Brief Description of Proposed Action: Applicants request a variance to allow them to house chickens in an existing coop, on our property that has been a farm. | | | | | | | |
| Name of Applicant or Sponsor: John Polk and Rebecca Stumpf | | Telephone: 217-369-0124 | | | | | |
| | | E-Mail: jp.kgtn@gmail.com | | | | | |
| Address: 101 Bozenkill Rd | | | | | | | |
| City/PO: Altamont | | State: NY | Zip Code: 12009 | | | | |
| 1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2. | | | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">NO</td> <td style="width: 50%; text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table> | NO | YES | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| NO | YES | | | | | | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | | | | | | |
| 2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: | | | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">NO</td> <td style="width: 50%; text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table> | NO | YES | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| NO | YES | | | | | | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | | | | | | |
| 3.a. Total acreage of the site of the proposed action? | | <u>20</u> acres | | | | | |
| b. Total acreage to be physically disturbed? | | <u>0</u> acres | | | | | |
| c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? | | <u>20</u> acres | | | | | |
| 4. Check all land uses that occur on, adjoining and near the proposed action. | | | | | | | |
| <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input checked="" type="checkbox"/> Forest <input checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland | | | | | | | |

| | | | |
|---|--|-------------------------------------|--------------------------|
| 5. Is the proposed action, a. A permitted use under the zoning regulations? | NO | YES | N/A |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Consistent with the adopted comprehensive plan? <i>Unknown</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Is the proposed action consistent with the predominant character of the existing built or natural landscape? | NO | YES | |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| 7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____ | NO | YES | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| 8. a. Will the proposed action result in a substantial increase in traffic above present levels? | NO | YES | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| b. Are public transportation service(s) available at or near the site of the proposed action? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| 9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: There are no changes to energy use | NO | YES | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| 10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: No changes to water supply are needed | NO | YES | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| 11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: no changes to wastewater are needed | NO | YES | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| 12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? | NO | YES | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| b. Is the proposed action located in an archeological sensitive area? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| 13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? | NO | YES | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| 14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input checked="" type="checkbox"/> Forest <input checked="" type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban | | | |
| 15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered? | NO | YES | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| 16. Is the project site located in the 100 year flood plain? | NO | YES | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| 17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES | NO | YES | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ | <input type="checkbox"/> NO <input type="checkbox"/> YES | | |

| | | |
|---|-------------------------------------|--------------------------|
| 18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ | NO | YES |
| _____ | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ | NO | YES |
| _____ | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ | NO | YES |
| _____ | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE | | |
| Applicant/sponsor name: <u>John Polk</u>  Date: <u>12/28/2021</u> | | |
| Signature: _____ | | |

Agency Use Only [If applicable]

| | |
|----------|--|
| Project: | |
| Date: | |

Short Environmental Assessment Form

Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

| | No, or small impact may occur | Moderate to large impact may occur |
|--|---|--|
| 1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Will the proposed action result in a change in the use or intensity of use of land? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Will the proposed action impair the character or quality of the existing community? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Will the proposed action impact existing: | <input type="checkbox"/> | <input type="checkbox"/> |
| a. public / private water supplies? | <input type="checkbox"/> | <input type="checkbox"/> |
| b. public / private wastewater treatment utilities? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Will the proposed action create a hazard to environmental resources or human health? | <input type="checkbox"/> | <input type="checkbox"/> |

PRINT FORM

Agency Use Only [If applicable]

Project:

Date:

Short Environmental Assessment Form
Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

| | |
|--|--|
| <input type="checkbox"/> | Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required. |
| <input type="checkbox"/> | Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts. |
| <hr/> | |
| Name of Lead Agency | Date |
| <hr/> | |
| Print or Type Name of Responsible Officer in Lead Agency | Title of Responsible Officer |
| <hr/> | |
| Signature of Responsible Officer in Lead Agency | Signature of Preparer (if different from Responsible Officer) |

PRINT FORM

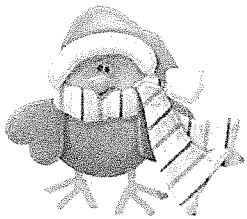
Ginger Hannah

From: James Vitale <vitale@nycap.rr.com>
Sent: Sunday, January 30, 2022 9:52 AM
To: villageadmin@altamontvillage.org
Subject: Variance to permit chickens

Dear Ms. Hannah,

My husband and I received your letter of the notice of request made by our neighbors, John Polk and Rebecca Stumpf, for a variance to house chickens on their property. We are writing to you in support of their request. We are unable to attend the Zoning Board meeting but would appreciate our support of the variance be included in consideration of the request. Thank you.

Mary and Jim Vitale
5 Indian Maiden Pass
Altamont, NY 12009



Jim and Mary

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

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

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

Applicants: John Polk

Guests: 3

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

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

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

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

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

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

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

John Polk, Applicant: Sure.

Danny Ramirez, Chairman: Thank you.

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

Danny Ramirez, Chairman: Thank you.

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

John Polk, Applicant: Yeah.

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

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

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

John Polk, Applicant: Yes, it is.

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

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

Kate Provencher, Board Member: Okay.

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

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

Allyson Phillips, Village Attorney: I can answer that.

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

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

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

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

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

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

Allyson Phillips, Village Attorney: Sure.

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

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

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

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

Allyson Phillips, Village Attorney: I think if you're going to seek a determination from the code enforcement officer that the use is a legal preexisting nonconforming use, and if that's your evidence, you can present it to the code enforcement officer. He would have to evaluate that, evaluate the article in our Zoning Law that governs preexisting nonconforming uses. My understanding, I'll have to go back and look at that, I'll admit I didn't review that before the meeting tonight, you're looking at whether the use was lawfully taking place or existing at the time a zoning prohibition went into effect to prohibit it.

I'm not sure how that would be affected if the use was legal in Guilderland and then I'm not sure at what point in time the property was annexed into Altamont and how that, what point in time, the prohibition on farm animals came into the law as part of the Village of Altamont. So all of that would have to be reviewed to determine at what point in time the prohibition went into effect, but also some proof as to when the preexisting use was taking place.

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

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

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

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

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

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

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

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

John Polk, Applicant: Yes. 355-29.

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

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

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

John Polk, Applicant: Yes.

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

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

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

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

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

John Polk, Applicant: I appreciate that.

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

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

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

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

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

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

Danny Ramirez, Chairman: I understand.

John Polk, Applicant: I misunderstood.

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

John Polk, Applicant: That is true.

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

John Polk, Applicant: Okay.

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

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

Kate Provencher, Board Member: Yes, of course.

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

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

John Polk, Applicant: Okay.

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

John Polk, Applicant: Okay.

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

John Polk, Applicant: Okay.

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

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

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

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

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

John Polk, Applicant: That's okay.

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

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

John Polk, Applicant: Correct.

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

John Polk, Applicant: Very good.

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

John Polk, Applicant: Okay.

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

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

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

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

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

Allyson Phillips, Village Attorney: Correct.

John Polk, Applicant: Okay.

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

Allyson Phillips, Village Attorney: Right.

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

John Polk, Applicant: Okay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Kate Provencher, Board Member: It was.

John Polk, Applicant: Long Grass was new.

Allyson Phillips, Village Attorney: Yeah.

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

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

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

Allyson Phillips, Village Attorney: So an older annexation?

Kate Provencher, Board Member: Yeah.

Allyson Phillips, Village Attorney: Okay.

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

John Polk, Applicant: Very good. Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

John Polk, Applicant: It does. Yeah.

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

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

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

John Polk, Applicant: Thank you.

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

John Polk, Applicant: Sure.

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

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

Allyson Phillips, Village Attorney: Sure.

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

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

James Sullivan, Board Member: Thank you.

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

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

Danny Ramirez, Chairman: Go ahead.

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

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

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

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

Danny Ramirez, Chairman: Not a problem. Okay.

John Polk, Applicant: Thank you very much.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Allyson Phillips, Village Attorney: Okay.

Danny Ramirez, Chairman: Zoom did the recording.

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

Kate Provencher, Board Member: Okay.

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

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

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

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

Respectfully submitted,

Ginger Hannah, Secretary

Transcript prepared by Rev.com and reviewed by Ginger Hannah

Village of Altamont - Joint Meeting
Regular Meeting Planning Board and
Special Meeting of Zoning Board of Appeals
September 28, 2020

Planning Board Members:

| | |
|----------------------------------|---|
| Deborah Hext, Chairman | Lance Moore, Building Inspector/Code Enforcer |
| Stephen Caruso, Board Member | Dean Whalen, Board Liaison |
| John Hukey, Board Member | Ginger Hannah, Secretary |
| Barbara Muhlfelder, Board Member | |
| Dan Hitt, Board Member | Guests: 2 |

Zoning Board of Appeals Members:

| | |
|-------------------------------------|-------------------------------------|
| Danny Ramirez, Chairman | |
| Kathryn Provencher, Member (Absent) | |
| Tresa Matulewicz, Member | |
| Sal Tassone, Member | |
| Laura Murphy, Alternate | <u>Applicant:</u> Chelsea Sylvester |

Chairperson Hext opened the meeting at 7:02 p.m. on September 28, 2020 and welcomed everyone to the regularly scheduled Village of Altamont Planning Board Meeting and the Special Meeting of the Zoning Board of Appeals. She said my name is Deb Hext, the Planning Board Chair. She stated that for the record, due to the COVID-19 and social distancing orders, this meeting is being held remotely and both the audio and video portions of this meeting are being recorded. I'd like to welcome the ZBA to this meeting and give them an opportunity to introduce themselves.

Good evening, my name is Danny Ramirez, Chair of the Zoning Board of Appeals. He introduced Tresa Matulewicz, Laura Murphy and Sal Tassone, Board Members of the ZBA. Planning Board introduced themselves as Deb Hext, Chairperson, and Board Members Barb Muhlfelder, Dan Hitt, John Hukey, and Steve Caruso. Chairperson Hext said we also have Lance Moore, Dean Whalen and Secretary Ginger Hannah.

Chairperson Hext stated that since this is a combined meeting, she wanted to give it some order. I'd like the Planning Board to go first in the approval of the new Rules of Procedure for Planning Board Meetings Document as it was presented to us. After that the ZBA can follow up with the approval of their ZBA Rules of Procedure, and then the approval of their minutes from previous meetings. Once the ZBA is finished, they can adjourn the ZBA portion of the meeting. If they want to stay on with us, certainly they're welcome or they can leave. After that, I will read the legal notice and open the Public Hearing regarding the SUP. She asked if that sounded okay to everybody, and all agreed.

Chairperson Hext addressed the Planning Board and said she didn't get anything from anybody in an email with questions regarding the changes to the procedure document for the Planning Board. Given that, would someone want to make the motion to approve the new Rules of Procedure for Planning

Board Meetings Document. Motion made by Board Member Muhlfelder. Seconded by Board Member Hukey. **Roll Call: All in Favor.**

Chairperson Hext thanked everyone and turned the meeting over to ZBA Chairman Ramirez.

Chairman Ramirez addressed the ZBA members and said I trust everyone had a chance to review the Rules of Procedures for Zoning Board of Appeals Meetings. If everybody is in agreement, I would entertain a motion for approval. Motion made by Board Member Matulewicz. Seconded by Board Member Tassone. **Roll Call: All in Favor.**

Chairman Ramirez then said to the Zoning Board Members that we have minutes for the last four previous meetings to approve. Motions were made as follows:

Motion to approve Minutes of the February 11, 2020 ZBA meeting - motion made by Board Member Murphy. Seconded by Board Member Tassone. **Roll Call: All in Favor.**

Motion to approve Minutes of the March 10, 2020 ZBA meeting - motion made by Board Member Murphy. Seconded by Board Member Matulewicz. **Roll Call: All in Favor.**

Motion to approve Minutes of the March 31, 2020 ZBA meeting - motion made by Board Member Murphy. Seconded by Board Member Tassone. **Roll Call: All in Favor.**

Motion to approve Minutes of the August 25, 2020 ZBA meeting - motion made by Board Member Matulewicz. Seconded by Board Member Murphy. **Roll Call: All in Favor.**

Chairman Ramirez then said that having concluded the approval of our minutes, unless anybody else has something to say, I would entertain a motion to close the ZBA portion of the meeting. Motion made by Board Member Matulewicz. Seconded by Board Member Murphy. **Roll Call: All in Favor.**

Chairperson stated that the ZBA Board Members were invited to stay and listen to the meeting for the Special Use Permit. Thank you very much for your participation.

Chairperson Hext noted that the Applicant was not yet on the meeting. Secretary Hannah said she would give her a call. Chairperson Hext said in the meantime, let's approve the meeting minutes. We have four different meeting minutes to approve here. The following motions were made:

Motion to approve Minutes of the May 18, 2020 Planning Board meeting - motion made by Board Member Hukey. Seconded by Board Member Muhlfelder. **Roll Call: All in Favor.**

Motion to approve Minutes of the June 8, 2020 Planning Board meeting - motion made by Board Member Hukey. Seconded by Board Member Muhlfelder. **Roll Call: All in Favor.**

Motion to approve Minutes of the June 15, 2020 Planning Board meeting - motion made by Board Member Muhlfelder. Seconded by Board Member Hitt. **Roll Call: All in Favor.**

Motion to approve Minutes of the August 24, 2020 Planning Board meeting - motion made by Board Member Caruso. Seconded by Board Member Muhlfelder. **Roll Call: All in Favor.**

Board Member Muhlfelder stated that she thinks Stewart's looks great and she's heard very nice things about it. Chairperson Hext agreed and stated that everybody that she'd talked to said that it really does look good.

Applicant Chelsea Sylvester then joined the meeting at 7:26 p.m. and stated that she had been at Urgent Care due to a toothache. She apologized for being late. Chairperson Hext welcomed her and said we can certainly postpone this if you want. Ms. Sylvester said she no, I'm totally fine.

Chairperson Hext then said that to open the Public Hearing, I'm going to read the legal notice, as follows: Village of Altamont Planning Board Notice of Public Hearing. Notice is hereby given that the Planning Board of the Village of Altamont, New York, will hold a Public Hearing pursuant to Article 355-5 on September 28, at 7:00 p.m., on the application of Chelsea Sylvester for a Special Use Permit to operate a Photography Studio at a property at 104 Maple Avenue, Altamont (Tax map ID 37.18-4-22). The Property is zoned Commercial Business District (CBD). The meeting will be held remotely as part of the Village of Altamont's COVID-19 response plan and can be accessed by the public using the link below. Plans are open for public inspection at the Village Offices during normal business hours. A copy of the Planning Board Agenda and related materials will be available on the Village website by Friday, September 25. Hard copies may also be obtained by contacting the Planning Board Secretary. Dated: September 15, 2020.

Chairperson stated with that the Public Hearing is now open. Do we have any comments from the public? I can't see if anybody is waving or anything. I don't know that we have anyone from the public on. Kerry, if you see anybody, let me know. Secretary Hannah stated that we might have two people on from the public. Chairperson Hext said, yes, and I think we still have Sean from The Enterprise on. She then said Chelsea, since there's no questions from the public, do you want to give us a quick rundown of your plan? Your write up was wonderful, by the way. Before I go any further and I forget to say this, I see that both you and your husband are ex-military. So thank you for your service.

Ms. Sylvester said thank you. She asked are you wondering how I plan to operate? Chairperson Hext said yes, just a quick synopsis of everything that you've actually said in the application.

Ms. Sylvester said basically I had started my photography studio in Colonie and after wanting to move and having some other deals go on, I found Altamont. So basically I plan to operate almost the same way. Normally I do it by appointment only, in addition to if anybody walks in while I'm there, I can plan appointments. The majority of what I do is the journey of baby. So I do maternity photographs, first photographs, first 48, newborns, six months, 12 months. Of course, I still do everything else, such as family photographs. I like holiday stuff like you guys will probably see. Christmas is one of my favorite things in the world, so that I kind of go really big for. But other than that, most of what I do is by appointment only. And basically that's kind of my deal. I just love what I do, so I make sure to make it as big as possible.

Chairperson Hext said okay, good, thank you. Do any board members have any questions for Chelsea based on the application or any just general questions? No? Okay. Did everybody look at the EAF? Did

everybody have a chance to review the short form? Board Members responded yes. Chairperson Hext said I had a couple of corrections and it's just probably you don't live here, so you just don't know.

(4) Check all land uses that occur on, are adjoining or near the proposed site – commercial, and you do have residential there. So I checked that.

(5a) It is a permitted use under our zoning regulations. That was checked "not applicable".

(8b) Are public transportation services available at or near the site? They really are, which is a good thing for you. If somebody wants to come to Altamont, there's a bus stop right across the street on Main Street.

Ms. Sylvester said I didn't even know that, but that's good to know.

(8c) Are any pedestrian accommodations or bicycle routes available? There are bicycle racks in the park across the street where the gazebo is. If anybody wants to bike there, they can certainly park there. You have public parking basically right across the street from you a little bit down on Maple. I just wanted to clarify a few things just for your sake so that you would know that these things do exist.

Ms. Sylvester said absolutely, that's good to know.

Chairperson Hext said other than that, this is a Type II action under SEQRA, so there is no further review necessary. So given that, and again, we have no public comment I believe, because the next thing I will do is make a motion to close the Public Hearing.

Chairman Ramirez said this is photography and I know a little bit about it, but not in the latest technology - digital. In doing prints, are there any chemicals that we have to be concerned about in the waste water?

Ms. Sylvester said I actually don't print my own items just because it honestly isn't my expertise. I contract with a lab that is I believe in Virginia, so I don't print any of my own items or any of my own products. So there are no chemicals or anything like that and everything I do is digital. Then if you order prints or a book, so to speak, that does get outsourced. So no, there are no chemicals or anything with water that should be a concern.

Chairman Ramirez said excellent, thank you. Chairperson Hext said thank you, Dan, good question. Anyone else? Then can I have a motion to close the public hearing? Motion made by Board Member Caruso. Seconded by Board Member Hukey. **Roll Call: All in favor.**

Chairperson Hext said with that, next would be the most important part to Chelsea. Can I have a motion to approve the Special Use Permit for a Photography Studio located at 104 Maple Avenue? Motion made by Board Member Hitt. Seconded by Board Member Caruso. **Roll Call: All in favor.**

Chairperson Hext said okay, Chelsea. You're all set. You're good to go. Welcome to Altamont. If there's anything any of us can do, please don't hesitate to ask. I'm always available by email - send it to Ginger. If there's anything we can help you with, we're certainly here to help.

Ms. Sylvester said thank you so, so, so much to all of you for all of your time and I cannot wait. And the same to you guys - if there's anything that I could do to help with the community. I know that there is the pumpkin display going on and if I take any pictures there or if I do anything more community based, I'll definitely reach out to you guys to let you know as well so that's something that can be shared and used among the community.

Everyone said thank you.

Chairman Ramirez said Deb, do you want to tell her about the website that she can put a business on?

Chairperson Hext said Altamont Community? She's way ahead of us. That's how we found about it. Chelsea, just for your information, Danny that you just heard is our Zoning Board Chair. So he and I usually are on each other's meetings and give each other support and I certainly appreciate his support. With that, I think we're all set ladies and gentlemen. Can I have a motion to adjourn?

Motion to adjourn the Joint Meeting of the Planning Board and Zoning Board of Appeals made by Board Member Muhlfelder. Seconded by Board Member Hitt. **Roll Call: All in Favor.** Meeting adjourned at 7:38 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Ginger Hannah".

Ginger Hannah, Secretary

Attached:

- Rules of Procedures for Zoning Board of Appeals Meetings
- Rules of Procedures for Planning Board Meetings

**VILLAGE OF ALTAMONT
RULES OF PROCEDURE
FOR ZONING BOARD OF APPEALS MEETINGS**

SECTION 1. REGULAR MEETINGS:

- The Zoning Board of Appeals shall hold regular meetings on the second Tuesday of each month, as needed.
- These meetings shall commence at 7:00 p.m. and will be held in the Community Room at Village Hall unless otherwise posted.
- Any deviation of the foregoing paragraph must be determined by the Zoning Board of Appeals.

SECTION 2. SPECIAL MEETINGS:

- Special meetings of the Zoning Board of Appeals are all those Board meetings other than regular meetings.
- A special meeting may be called by the Chairperson.
- Notice of Special Meeting shall be provided to the public in accordance with the requirements of the Public Officers Law.

SECTION 3. QUORUM:

- A quorum of the Zoning Board of Appeals must be present to conduct business.
- A quorum of the five-member Board is three.
- In the absence of a quorum, a lesser number may adjourn and compel the attendance of absent members.

SECTION 4. EXECUTIVE SESSIONS:

- Executive sessions will be held in accordance with the Public Officers Law § 105.

- All executive sessions will be commenced in a public meeting.

SECTION 5. AGENDAS:

- The agenda of every meeting of the Zoning Board of Appeals will be prepared by the Secretary of the Board at the direction of the Chairperson.
- The Chairperson is responsible for having an item placed on the agenda.
- When possible, items for the agenda shall be given to the Secretary of the Board by the Thursday before the meeting.
- The agenda will be prepared no later than the Friday before the day of the meeting.
- Submission of public comment on a specific application must be submitted to the Secretary of the Board during the duly noticed public hearing period. All materials for the Board must be submitted by mail, hand delivered, or emailed to the Secretary of the Board.
- Application for special use permit and preliminary site plan approval and required information shall be submitted to the Building Inspector at least 10 business days prior to the date of the regular meeting of the Zoning Board of Appeals.

SECTION 6: VOTING:

- Pursuant to Village Law, each member of the Zoning Board of Appeals has one vote.
- A vote upon any question will be taken by “in-favor” and “opposed”.
- When taking votes, the Secretary of the Board must record in the minutes for each Zoning Board of Appeals member whether they voted “in-favor”, voted “opposed”, “abstained” from voting, or were absent. Abstentions and absences are neither positive nor negative votes; they are simply no vote at all.
- For the purposes of determining whether a matter passed, the Secretary of the Board must tally the number of “in-favor” votes.

- Unless otherwise specified by state law, a majority (three) of the totally authorized voting power of the Board must vote “in-favor” for the matter to pass.

SECTION 7: MINUTES:

- Minutes shall be taken by the Secretary of the Board.
- Minutes must consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon, and vote thereon.
- Minutes must be taken at executive session of any action that is taken by formal vote and must consist of a record or summary of the final determination of the action, and the date and vote thereon. The summary need not include any matter which is not required to be made public in accordance with applicable law.
- Minutes must include the following:
 - 1) Name of the Board;
 - 2) Date, place, and time of the meeting;
 - 3) Notation of whether a board member is present or absent, and the Board member’s time of arrival or time of departure if different from the time the meeting was called to order and adjourned;
 - 4) Name and title of other Village officials and employees present and the approximate number of attendees;
 - 5) Record of communications presented to the Board;
 - 6) Record of reports made by Board or other Village personnel;
 - 7) Time of Adjournment;
 - 8) Signature of Secretary of the Board or person who took the minutes if not the Secretary of the Board.
- Minutes may contain a summary of the discussion leading to an action taken but are not required to include verbatim comments unless a majority of the Board resolves to have the Secretary of the Board do so. Minutes shall be approved by the Zoning Board of Appeals at the next Zoning Board of Appeals meeting. The minutes may be amended upon Board approval.

SECTION 8: ORDER OF BUSINESS:

- Call to order;
- State where the emergency exits are located;
- Old business;
- New business;
- Approval of previous meeting's minutes;
- Adjournment

SECTION 9: GENERAL RULES OF PROCEDURE:

- The Chairperson presides at the meeting. In the Chairperson's absence, the member with seniority presides.
- The presiding officer may debate, make motions, and take any other action that other Board members may take.
- Board members are not required to rise but must be recognized by the presiding officer before making motions and speaking.
- A member, once recognized, may not be interrupted when speaking unless it is to call him/her to order. If a member is called to order, they must cease speaking until the question of order is determined. If the member is in order, he/she may proceed.
- A member may not be limited in the number of times he speaks on a question.
- Motions require a second.
- Motions to close or limit debate require two-thirds vote.

SECTION 10: GUIDELINES FOR PUBLIC COMMENT:

- The public may speak only during a duly noticed public hearing.

- Speakers must be recognized by the presiding officer.
- Speakers must step to the microphone in the front of the room.
- Speakers will be asked if they would like to give their name, address and organization, if any.
- The presiding officer sets the limit, not to exceed 5 minutes unless otherwise allowed by a majority of the Board.
- Speakers may not yield any remaining time they may have to another speaker and each speaker has only one opportunity per topic to speak.
- Board members may, with the permission of the presiding officer, interrupt a speaker during their remarks, but only for the purpose of clarification or information.
- All remarks must be addressed to the Board as a body and not to individual Board members or the audience.
- Speakers must observe the commonly accepted rules of courtesy, decorum, dignity and good taste. Speakers are encouraged not to read submitted written communications verbatim but should summarize their contents.

SECTION 11: GUIDELINES FOR USE OF RECORDING EQUIPMENT:

- All members of the public and all public officials are allowed to tape or video record public meetings.
- Recording is not allowed during executive sessions.
- The recording must be done in a manner which does not interfere with the meeting or set-up of meeting and staff.
- The Chairperson may make the determination that the recording is being done in an intrusive manner, taking into consideration, but not limited to, brightness of lights, distance from the Zoning Board of Appeals, size of the equipment, the amount of noise generated by the activity, and the ability of the public to still participate in the meeting.
- If the Chairperson determines that the recording is interfering with the meeting, the Chairperson may request that the individual alter his behavior to eliminate the interference. If the Chairperson's request is not complied with, the Chairperson may have the individual removed from the meeting room.

SECTION 12: ADJOURNMENT:

- Meetings must be adjourned by motion.

SECTION 13: AMENDMENTS TO THE RULES OF PROCEDURE:

- The foregoing procedures may be amended from time to time by the majority vote of the Board.