

ALTAMONT ZONING BOARD OF APPEALS
Special Meeting Agenda – Remote Meeting
March 31, 2020

1. Open meeting
 - a. State time
 - b. State that the meeting is recorded
 - c. Ask people to state their name each time they speak

2. Review of previous meeting minutes if available

If approved – Motion made by: _____

Seconded by: _____

Roll call: MM _____ KP _____

DR _____ ST _____ TM _____

3. Topic & Discussion: Stewart's Shops –Vote on Application for 3 Area Variances

Motion made by: _____ Seconded by: _____

Motion: _____

Roll Call: MM _____ KP _____

DR _____ ST _____ TM _____

4. Other Business:

5. Meeting Adjourned at Time: _____ Motion Made by: _____

Seconded by: _____

Roll Call: MM _____ KP _____

DR _____ ST _____ TM _____

**RESOLUTION
ALTAMONT ZONING BOARD OF APPEALS**

**RESOLUTION, FINDINGS, AND DECISION ON
REQUEST FOR AREA VARIANCE**

Stewart's Shops Corp Variance Request #1: Area Variance from Zoning Law §355-38(E)(4) to Locate Proposed Stewart's Shop Building 20 feet from the Adjoining Residential Lot

WHEREAS, the Zoning Board of Appeals for the Village of Altamont ("ZBA") has received an application from Stewart's Shops Corp (Stewart's) for three (3) area variances necessary to redevelop its existing store and gasoline filling station on property it owns located at 1001 Altamont Blvd/ 107 Helderberg Ave and 109 Helderberg Ave (the "Project"); and

WHEREAS, Stewart's has been operating at its existing location at 1001 Altamont Blvd/ 107 Helderberg Ave since 1980 and is a lawful, non-conforming property under the Village of Altamont Zoning Law ("Zoning Law"); and

WHEREAS, in 2018, Stewart's applied to the Village of Altamont Board of Trustees ("Village Board") to change the zoning on an adjacent piece of property located at 109 Helderberg Avenue from Residential-10 (R-10) to Central Business District (CBD) so that the two lots could be merged and redeveloped with a new Stewart's store and gasoline filling station; and

WHEREAS, on or about December 12, 2018 the Village Board, acting as Lead Agency under the State Environmental Quality Review Act ("SEQRA"), adopted a Negative Declaration and thereafter, adopted Local Law No. 1 of 2018 which rezoned 109 Helderberg to CBD; and

WHEREAS, the Village Zoning Officer had previously determined that the Project qualified as a "Convenience Store" under the Zoning Law; this determination was appealed to the ZBA, and by decision dated May 28, 2019, the ZBA held the Project qualified as a "Gasoline Service Station" under the Zoning Law; and

WHEREAS, in the Spring of 2019, the Village Board's zoning determination was challenged in a legal proceeding in Albany County Supreme Court; and

WHEREAS, thereafter, the Village Board undertook a second coordinated review for the Project under SEQRA that included the ZBA as an involved agency; and

WHEREAS, the Village Board issued a Negative Declaration for the Project on November 19, 2019 and thereafter adopted Local Law No. 2 of 2019 reaffirming its rezoning of 109 Helderberg to CBD; and

WHEREAS, Stewart's submitted an application for area variances for the Project to the ZBA on November 25, 2019 (the "Application"); and

WHEREAS, the Application requests the following three (3) area variances: 1) A variance from Zoning Law §355-38(E)(4); No building or other structure, except a fence, shall be closer than 50 feet to any lot in a residential district or any other lot used for residential purposes; 2) Zoning Law §355-38(E)(11): Gasoline service stations shall be permitted only on lots of 40,000 square feet or more, with 150 feet minimum frontage, and on corner lots a minimum of 100 feet of frontage on each street or highway; and 3) Zoning Law §355: Attachment 2 – Maximum Front Yard Setback of 10 feet; and

WHEREAS, the ZBA has reviewed the application, including additional detailed submissions on the Project submitted by Stewart's in support of the application; and

WHEREAS, the ZBA duly noticed and held a public hearing on the application on February 11, 2020 at which time all members of the public wishing to speak were heard and kept the public hearing open for an additional ten (10) day period to receive written comments; 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 and the Applicant's responses thereto and the Albany County Planning Board's response to the N.Y. GML §239 referral; and

WHEREAS, the ZBA has publicly deliberated on this matter and directed that a draft Resolution and Decision with findings be prepared by its attorney; and

WHEREAS, the ZBA has duly considered all of the materials before it and a draft Resolution and Decision with Findings for each variance request has been prepared by its attorney.

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

- 1) **Variance Request No. 1 - Area Variance from Zoning Law §355-38(E)(4) - No building or other structure, except a fence, shall be closer than 50 feet to any lot in a residential district or any other lot used for residential purposes. Stewart's requests an area variance to locate its proposed Stewart's Shop building 20 feet from the adjoining residential lot.**

The ZBA has balanced the benefit to the applicant if the area variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant, and hereby adopts the following Findings:

- i. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

The ZBA finds that the requested variance will not result in an undesirable change in the neighborhood or create a detriment to nearby properties if the area variance is granted. Stewart's has operated the existing Stewart's Shop and gas filling operation on the property at 1001 Altamont Blvd since on or around 1980. The surrounding neighborhood includes commercial and residential uses. While the requested variance will allow for the proposed new building to be located 20 feet from the adjacent residential property line (rather than the required 50 feet), the placement of the building in the proposed location in between the adjacent residential property and gas island will work to mitigate the impacts of Stewart's commercial operations and light intrusion by creating a physical barrier between those operations and the adjacent residential property and neighborhood. It will also eliminate a travel lane or pass through and related traffic that now exists between the Stewart's Shop and the adjacent residential property and enhance walkability in the area. The visual appearance and architecture of the new building also accords with the community character and design envisioned in the Village of Altamont Comprehensive Plan and is an improvement when compared to the visual appearance and architecture of the existing building. The use of shielded LED light fixtures, a retaining wall around the condenser units, and other design features that have been incorporated in the building design will further mitigate any impact on nearby residential properties.

- ii. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

The ZBA finds that the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance. Stewart's has requested the area variances to enable it to redevelop its property to include a larger store and more modern Stewart's Shop, site its gas island in a location that is compliant with the Village Zoning Law, increase the separation distance between the gas island and parking at the front of the store, and allow for better overall site circulation. The ZBA has reviewed and considered whether Stewart's can achieve these benefits without the requested area variance and finds that there is no feasible alternative. The site is located on the corner of Helderberg Avenue and Altamont Boulevard. The on-site driveways must meet the Driveway Design Policy of the New York State Highway Design Manual. The record demonstrates that centering the building in a manner similar to its current configuration or aligning the building with Altamont Boulevard would not eliminate the need for an area variance. In addition, aligning the building with Altamont Boulevard (outside the NYSDOT right of way [ROW]) would require Stewart's to move its gas island and related commercial operations closer to the adjacent residential property and neighborhood to the west of the site. This would create a greater impact on nearby residential properties by eliminating the physical barrier or buffer that is created by locating the proposed new building between the commercial activities on Stewart's property and other properties in the CBD and the adjacent residential neighborhood. Increasing the proposed setback would

also interfere with the existing driveway on Helderberg Avenue which cannot be located closer to the corner in accordance with NYSDOT Highway Design requirements. Based on the foregoing, the ZBA determines the requested variance is the minimum variance necessary and that the benefit sought by Stewart's cannot be achieved by some other feasible alternative.

iii. Whether the requested area variance is substantial;

The ZBA finds that the requested area variance to allow a 20-foot setback instead of the required 50-foot setback is substantial.

iv. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The ZBA finds that the requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood or district. The mitigating measures that have been incorporated in the Project design, including but not limited to the visual appearance and architecture of the proposed new building, the use of shielded LED light fixtures, a retaining wall around the condenser units, and proposed fence and plantings to be located in between the building and adjacent residential property, will ensure there is no adverse effect or impact associated with granting the variance. The elimination of one (1) of the (3) three existing driveways on the site will also make the area more walkable and safer for pedestrians. The ZBA also notes that the Project will require a Stormwater Pollution Prevention Plan (SWPPP) that complies with NYSDEC design guidelines which will be reviewed by the Village of Altamont Planning Board as part of the site plan review process. In sum, the ZBA finds these facts and additional facts documented in the record and in the Negative Declaration that was adopted by the Lead Agency following a coordinated review of potential environmental impacts under SEQRA demonstrate that the requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

v. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.

The ZBA finds the alleged difficulty was self-created as Stewart's is voluntarily undertaking a redevelopment of its property and existing commercial operation.

2) The ZBA does hereby grant Stewart's Variance Request #1 – Area Variance from Zoning Law §355-38(E)(4) to locate its proposed Stewart's Shop building 20 feet from the adjoining residential lot.

- 3) **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 _____.

The motion was seconded by _____.

The vote was as follows:

| | Aye | Nay |
|--------------------|-------|-------|
| Chairman McCormick | _____ | _____ |
| Provencher | _____ | _____ |
| Matulewicz | _____ | _____ |
| Ramirez | _____ | _____ |
| Tassone | _____ | _____ |

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 special meeting held March 31, 2020, 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 |
|-----------------|----------------|---------|
| McCormick | | Yea/Nay |
| Provencher | | Yea/Nay |
| Matulewicz | | Yea/Nay |
| Ramirez | | Yea/Nay |
| Tassone | | Yea/Nay |

Witness my hand and the seal of the Village of Altamont, this _____ day of _____, 2020.

GINGER HANNAH, SECRETARY
VILLAGE OF ALTAMONT ZONING BOARD OF APPEALS

**RESOLUTION
ALTAMONT ZONING BOARD OF APPEALS**

**RESOLUTION, FINDINGS, AND DECISION ON
REQUEST FOR AREA VARIANCE**

**Stewart's Shops Corp Variance Request #2: Area Variance from Zoning Law §355-38(E)(11) to
Permit a Gasoline Service Station on a Lot of 33,958 Square Feet.**

WHEREAS, the Zoning Board of Appeals for the Village of Altamont ("ZBA") has received an application from Stewart's Shops Corp (Stewart's) for three (3) area variances necessary to redevelop its existing store and gasoline filling station on property it owns located at 1001 Altamont Blvd/ 107 Helderberg Ave and 109 Helderberg Ave (the "Project"); and

WHEREAS, Stewart's has been operating at its existing location at 1001 Altamont Blvd/ 107 Helderberg Ave since 1980 and is a lawful, non-conforming property under the Village of Altamont Zoning Law ("Zoning Law"); and

WHEREAS, in 2018, Stewart's applied to the Village of Altamont Board of Trustees ("Village Board") to change the zoning on an adjacent piece of property located at 109 Helderberg Avenue from Residential-10 (R-10) to Central Business District (CBD) so that the two lots could be merged and redeveloped with a new Stewart's store and gasoline filling station; and

WHEREAS, on or about December 12, 2018 the Village Board, acting as Lead Agency under the State Environmental Quality Review Act ("SEQRA"), adopted a Negative Declaration and thereafter, adopted Local Law No. 1 of 2018 which rezoned 109 Helderberg to CBD; and

WHEREAS, the Village Zoning Officer had previously determined that the Project qualified as a "Convenience Store" under the Zoning Law; this determination was appealed to the ZBA, and by decision dated May 28, 2019, the ZBA held the Project qualified as a "Gasoline Service Station" under the Zoning Law; and

WHEREAS, in the Spring of 2019, the Village Board's zoning determination was challenged in a legal proceeding in Albany County Supreme Court; and

WHEREAS, thereafter, the Village Board undertook a second coordinated review for the Project under SEQRA that included the ZBA as an involved agency; and

WHEREAS, the Village Board issued a Negative Declaration for the Project on November 19, 2019 and thereafter adopted Local Law No. 2 of 2019 reaffirming its rezoning of 109 Helderberg to CBD; and

WHEREAS, Stewart's submitted an application for area variances for the Project to the ZBA on November 25, 2019 (the "Application"); and

WHEREAS, the Application requests the following three (3) area variances: 1) A variance from Zoning Law §355-38(E)(4); No building or other structure, except a fence, shall be closer than 50 feet to any lot in a residential district or any other lot used for residential purposes; 2) Zoning Law §355-38(E)(11): Gasoline service stations shall be permitted only on lots of 40,000 square feet or more, with 150 feet minimum frontage, and on corner lots a minimum of 100 feet of frontage on each street or highway; and 3) Zoning Law §355: Attachment 2 – Maximum Front Yard Setback of 10 feet; and

WHEREAS, the ZBA has reviewed the application, including additional detailed submissions on the Project submitted by Stewart's in support of the application; and

WHEREAS, the ZBA duly noticed and held a public hearing on the application on February 11, 2020 at which time all members of the public wishing to speak were heard and kept the public hearing open for an additional ten (10) day period to receive written comments; 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 and the Applicant's responses thereto and the Albany County Planning Board's response to the N.Y. GML §239 referral; and

WHEREAS, the ZBA has publicly deliberated on this matter and directed that a draft Resolution and Decision with findings be prepared by its attorney; and

WHEREAS, the ZBA has duly considered all of the materials before it and a draft Resolution and Decision with Findings for each variance request has been prepared by its attorney.

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

- 1) **Variance Request No. 2 - Zoning Law §355-38(E)(11): Gasoline service stations shall be permitted only on lots of 40,000 square feet or more. Stewart's requests an area variance to permit a Gasoline Service Station on a lot of 33,958 square feet (6,042 square feet [15%] less than the minimum 40,000 square foot minimum required).**

The ZBA has balanced the benefit to the applicant if the area variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant, and hereby adopts the following Findings:

- i. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

The ZBA finds that the requested variance will not result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties if the area variance is granted. Stewart's has operated the existing Stewart's Shop and gas filling operation on the property at 1001 Altamont Blvd/ 107 Helderberg since on or around 1980. The lot meets the minimum 5,000 square foot lot size requirement for a Convenience Store but does not comply with the 40,000 square foot minimum required for a Gasoline Service Station. Stewart's has purchased the neighboring parcel at 109 Helderberg Avenue which increases the size of the Project site to 33,958 square feet. Therefore, the overall size of the parcel where Stewart's new Gasoline Service Station will be located is more compliant than the site of its current operation. The ZBA also finds the placement of the proposed building in between the adjacent residential property and gas island will work to mitigate the impacts of Stewart's commercial operations and light intrusion by creating a physical barrier between those operations and the adjacent residential property and neighborhood. It will also eliminate a travel lane or pass through and related traffic that now exists between the Stewart's Shop and the adjacent residential property and enhance walkability in the area. For these reasons, the ZBA finds there will be no undesirable change in the character of the neighborhood or detrimental impact from granting the variance.

- ii. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

The ZBA finds that the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance. The site of Stewart's existing Shop and gasoline service station is already undersized for a Gasoline Service Station and Stewart's has acquired the neighboring property at 109 Helderberg Avenue so that it can combine the lots and bring the site into greater compliance. Stewart's does not own any additional property that it could add to the Project site to meet the minimum 40,000 square foot requirement. Based on the foregoing, the ZBA determines the requested variance is the minimum variance necessary and that the benefit sought by Stewart's cannot be achieved by some other feasible alternative.

- iii. Whether the requested area variance is substantial;

The ZBA finds that the requested area variance to permit a Gasoline Service Station on a lot of 33,958 square feet, which is 6,042 square feet or 15% less than the 40,000 square foot minimum requirement is not substantial.

- iv. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The ZBA finds that the requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood or district. The overall size of the parcel where Stewart's new Gasoline Service Station will be located is more compliant than the site of its current operation. In addition, the mitigating measures that have been

incorporated in the Project design will ensure there is no adverse effect or impact associated with granting a variance to permit a Gasoline Service Station on a lot that is 33,958 square feet (as opposed to the minimum 40,000 square feet). The elimination of one (1) of the (3) three existing driveways on the site will also make the area more walkable and safer for pedestrians. The ZBA also notes that the Project will require a Stormwater Pollution Prevention Plan (SWPPP) that complies with NYSDEC design guidelines which will be reviewed by the Village of Altamont Planning Board as part of the site plan review process. In sum, the ZBA finds these facts and additional facts documented in the record and in the Negative Declaration that was adopted by the Lead Agency following a coordinated review of potential environmental impacts under SEQRA demonstrate that the requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

- v. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.

The ZBA finds the alleged difficulty was self-created as Stewart's is voluntarily undertaking a redevelopment of its property and existing commercial operation.

- 1) **The ZBA does hereby grant Stewart's Variance Request #2 - Area Variance from Zoning Law §355-38(E)(11) to permit a Gasoline Service Station on a lot of 33,958 square feet.**
- 2) **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 _____.

The motion was seconded by _____.

| The vote was as follows: | Aye | Nay |
|--------------------------|-------|-------|
| Chairman McCormick | _____ | _____ |
| Provencher | _____ | _____ |
| Matulewicz | _____ | _____ |
| Ramirez | _____ | _____ |
| Tassone | _____ | _____ |

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 special meeting held March 31, 2020, 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 |
|-----------------|----------------|---------|
| McCormick | | Yea/Nay |
| Provencher | | Yea/Nay |
| Matulewicz | | Yea/Nay |
| Ramirez | | Yea/Nay |
| Tassone | | Yea/Nay |

Witness my hand and the seal of the Village of Altamont, this _____ day of _____, 2020.

GINGER HANNAH, SECRETARY
VILLAGE OF ALTAMONT ZONING BOARD OF APPEALS

**RESOLUTION
ALTAMONT ZONING BOARD OF APPEALS**

**RESOLUTION, FINDINGS, AND DECISION ON
REQUEST FOR AREA VARIANCE**

**Stewart's Shops Corp Variance Request #3: Area Variance from Zoning Law §355
To Allow a Building 104 feet from Altamont Boulevard**

WHEREAS, the Zoning Board of Appeals for the Village of Altamont ("ZBA") has received an application from Stewart's Shops Corp (Stewart's) for three (3) area variances necessary to redevelop its existing store and gasoline filling station on property it owns located at 1001 Altamont Blvd/ 107 Helderberg Ave and 109 Helderberg Ave (the "Project"); and

WHEREAS, Stewart's has been operating at its existing location at 1001 Altamont Blvd/ 107 Helderberg Ave since 1980 and is a lawful, non-conforming property under the Village of Altamont Zoning Law ("Zoning Law"); and

WHEREAS, in 2018, Stewart's applied to the Village of Altamont Board of Trustees ("Village Board") to change the zoning on an adjacent piece of property located at 109 Helderberg Avenue from Residential-10 (R-10) to Central Business District (CBD) so that the two lots could be merged and redeveloped with a new Stewart's store and gasoline filling station; and

WHEREAS, on or about December 12, 2018 the Village Board, acting as Lead Agency under the State Environmental Quality Review Act ("SEQRA"), adopted a Negative Declaration and thereafter, adopted Local Law No. 1 of 2018 which rezoned 109 Helderberg to CBD; and

WHEREAS, the Village Zoning Officer had previously determined that the Project qualified as a "Convenience Store" under the Zoning Law; this determination was appealed to the ZBA, and by decision dated May 28, 2019, the ZBA held the Project qualified as a "Gasoline Service Station" under the Zoning Law; and

WHEREAS, in the Spring of 2019, the Village Board's zoning determination was challenged in a legal proceeding in Albany County Supreme Court; and

WHEREAS, thereafter, the Village Board undertook a second coordinated review for the Project under SEQRA that included the ZBA as an involved agency; and

WHEREAS, the Village Board issued a Negative Declaration for the Project on November 19, 2019 and thereafter adopted Local Law No. 2 of 2019 reaffirming its rezoning of 109 Helderberg to CBD; and

WHEREAS, Stewart's submitted an application for area variances for the Project to the ZBA on November 25, 2019 (the "Application"); and

WHEREAS, the Application requests the following three (3) area variances: 1) A variance from Zoning Law §355-38(E)(4); No building or other structure, except a fence, shall be closer than 50 feet to any lot in a residential district or any other lot used for residential purposes; 2) Zoning Law §355-38(E)(11): Gasoline service stations shall be permitted only on lots of 40,000 square feet or more, with 150 feet minimum frontage, and on corner lots a minimum of 100 feet of frontage on each street or highway; and 3) Zoning Law §355: Attachment 2 – Maximum Front Yard Setback of 10 feet; and

WHEREAS, the ZBA has reviewed the application, including additional detailed submissions on the Project submitted by Stewart's in support of the application; and

WHEREAS, the ZBA duly noticed and held a public hearing on the application on February 11, 2020 at which time all members of the public wishing to speak were heard and kept the public hearing open for an additional ten (10) day period to receive written comments; 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 and the Applicant's responses thereto and the Albany County Planning Board's response to the N.Y. GML §239 referral; and

WHEREAS, the ZBA has publicly deliberated on this matter and directed that a draft Resolution and Decision with findings be prepared by its attorney; and

WHEREAS, the ZBA has duly considered all of the materials before it and a draft Resolution and Decision with Findings for each variance request has been prepared by its attorney.

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

- 1) **Variance Request No. 3 - Zoning Law §355: Attachment 2 – Maximum Front Yard Setback of 10 feet. Stewart's requests an area variance to locate the proposed new building 104 feet from Altamont Boulevard (94 feet more than the maximum front yard setback).**

The ZBA has balanced the benefit to the applicant if the area variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant, and hereby adopts the following Findings:

- i. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

The ZBA finds that the requested variance will not result in an undesirable change in the neighborhood or create a detriment to nearby properties if the area variance is granted. The Project site is located on the corner of Altamont Boulevard and Helderberg Avenue. The current Stewart's Shop and gasoline filling operation do not comply with the maximum 10-foot setback on either street. The location of Stewart's new building will not comply with the maximum 10-foot setback on Altamont Boulevard, but it will now meet the 10-foot setback on Helderberg Avenue; a new sidewalk is also proposed which will enhance walkability in this area. The proposed location of the new building (104 feet from Altamont Boulevard) will also allow the gasoline island and related commercial activity to be located in the front of the store, and eliminate the travel lane that now exists between the Stewart's Shop and adjacent residential parcel. The commercial activity at the front of the store will be consistent with the commercial character of other uses in the CBD. At the same time, locating the new store in the proposed location 94 feet from Altamont Boulevard will shield or mitigate the impacts of car traffic and light intrusion on the adjacent residential property and neighborhood. For these reasons, the ZBA finds the requested variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.

- ii. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

The ZBA finds that the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance. Stewart's property is located on a corner lot. To meet the 10-foot maximum setback on Altamont Boulevard and Helderberg Avenue, the building would have to be located closer to the corner and NYSDOT ROW. This would require Stewart's to relocate the gas island and associated commercial activity to the back of the new building and closer to the adjacent residential property and neighborhood. In addition, moving the building closer to Altamont Boulevard would interfere with the existing driveway on Helderberg Avenue which cannot be located closer to the corner in accordance with NYSDOT Highway Design requirements. Based on the foregoing, the ZBA determines the requested variance is the minimum variance necessary and that the benefit sought by Stewart's cannot be achieved by some other feasible alternative.

- iii. Whether the requested area variance is substantial;

The ZBA finds that the requested area variance to allow a 104-foot setback instead of the maximum 10-foot setback (a difference of 94 feet) is substantial.

- iv. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The ZBA finds that the requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood or district. The mitigating measures that

have been incorporated in the Project design, including but not limited to the visual appearance and architecture of the proposed new building, the use of shielded LED light fixtures, a retaining wall around the condenser units, and proposed fence and plantings to be located in between the building and adjacent residential property, will ensure there is no adverse effect or impact associated with granting the variance to locate the proposed building 104 feet from Altamont Boulevard. The elimination of one (1) of the (3) three existing driveways on the site will also make the area more walkable and safer for pedestrians. The ZBA also notes that the Project will require a Stormwater Pollution Prevention Plan (SWPPP) that complies with NYSDEC design guidelines which will be reviewed by the Village of Altamont Planning Board as part of the site plan review process. In sum, the ZBA finds these facts and additional facts documented in the record and in the Negative Declaration that was adopted by the Lead Agency following a coordinated review of potential environmental impacts under SEQRA demonstrate that the requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

- v. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.

The ZBA finds the alleged difficulty was self-created as Stewart's is voluntarily undertaking a redevelopment of its property and existing commercial operation.

- 1) **The ZBA does hereby grant Stewart's Variance Request #3 - Area Variance from Zoning Law §355 to allow a building 104 feet from Altamont Boulevard.**
- 2) **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 _____.

The motion was seconded by _____.

The vote was as follows:

| | Aye | Nay |
|--------------------|-------|-------|
| Chairman McCormick | _____ | _____ |
| Provencher | _____ | _____ |

Matulewicz

Ramirez

Tassone



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 special meeting held March 31, 2020, 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 |
|-----------------|----------------|---------|
| McCormick | | Yea/Nay |
| Provencher | | Yea/Nay |
| Matulewicz | | Yea/Nay |
| Ramirez | | Yea/Nay |
| Tassone | | Yea/Nay |

Witness my hand and the seal of the Village of Altamont, this _____ day of _____, 2020.

GINGER HANNAH, SECRETARY
VILLAGE OF ALTAMONT ZONING BOARD OF APPEALS