

Village of Altamont Zoning Board of Appeals  
Regular Meeting  
May 28, 2019

Maurice McCormick, Chairman  
Danny Ramirez, Member  
Isaiah Swart, Member  
Kathryn Provencher, Member  
Tresa Matulewicz, Member  
Sal Tassone, Alt. Member

Lance Moore, Building Inspector/Code Enforcer, Absent  
Dean Whalen, Board Liaison, Absent  
Justin Heller, Village Attorney, Absent

Chairman McCormick opened the meeting at 7:00 p.m. and welcomed everyone. He noted where the exits were. He introduced himself and the Board as follows: Maurice McCormick, Chairman of the Zoning Board; Members of the Zoning Board: Kate Provencher, Isaiah Swart, Tresa Matulewicz, Danny Ramirez; and Secretary - Ginger Hannah. He stated that Lance Moore, Building Inspector and Justin Heller, Village Attorney, were not at this meeting as they had other things to do that were more pressing.

He stated that we're here tonight as a continuation of the May 14th meeting to address the appeal of the determination by Lance Moore, the Building Inspector, as to whether or not Stewart's is a convenient store or gasoline service station. He stated that we had a letter on behalf of Stewart's asking for a recusal of Kate Provencher. Rather than adjourn for a month, we adjourned for two weeks to help Stewart's out instead of waiting a full 30 days. He said this was also to give the Zoning Board Members an opportunity to speak to the Village Attorney. He asked if any Board Members would like to address the audience.

Board Member Provencher asked if he wanted her to address the question of recusal and he said yes. She stated that she has decided not to recuse herself from matters related to the Stewart's application. In making her decision, she reviewed several resources about conflict of interest and the situations in which a Board Member should recuse herself or himself. She also consulted with Village Attorney Heller. She stated that when she spoke at the public hearing and signed a petition in December related to the Village for considering the rezone, she was expressing her opposition to the manner in which a rezoning was being considered. She said she had served on the Comprehensive Plan Committee when that was updated, that there was a great deal of time and deliberation and input that went into that, and she thought that was a good process. She said she believes that if updates are necessary they should follow a similar process, and that is what she was commenting on in the public hearing in December. She stated she was not commenting on Stewart's as an applicant or on their application. She said that, In any case, that is not the matter before the Board now; we're not here to comment or to deliberate on the rezone. We're here to deliberate on their requests for variances and tonight on the definition because the Village Board has made that decision. She stated that she can and will be objective as we consider this now, so she will not recuse herself.

Chairman McCormick stated that we have a Stewart's Store that is classified as a convenience store. He stated that there's an appeal to that, and what we're going to do is decide that appeal tonight on whether or not Stewart's is a convenience store or a gasoline service station. He read into the record the following definitions from the Village of Altamont Code: A convenience store is defined as "any retail establishment offering for sale prepacked food products, household items, newspapers and magazines,

sandwiches and other freshly prepared foods, such as salads, for offsite consumption.” A gasoline service station is “an area of land, including structures thereon, or any building or part thereof, that is used for the sale and direct delivery to the motor vehicle of gasoline or any other motor vehicle fuel or oil and other lubrication substance, including any sale of motor vehicle accessories and which may or may not include facilities for lubrication, washing (which does not require mechanical equipment) or otherwise servicing motor vehicles, but not including auto body work, welding or painting. A convenience store maybe included.”

Chairman McCormick stated that there's the two definitions and said that the Board Members can discuss where they feel Stewart's falls in those definitions.

A lengthy discussion followed among the Board Members about the definitions. It was stated that according to the language in the Village of Altamont Code: (1) a gasoline service station can include a convenience store, but that the definition of a convenience store does not include the sale of gasoline; (2) once a convenience store does include sale of gasoline, it then goes to the definition of a gasoline service station and (3) a gasoline service station does not mean they're servicing vehicles; it means they have gasoline there.

It was noted that perhaps the Code could be rewritten in the future to have different classes of Convenience Store, such as what the Town of Guilderland has in their Code. After much discussion and each Board Member sharing their opinion, it was decided that Stewart's falls under the definition of a gasoline service station according to the Village of Altamont Code.

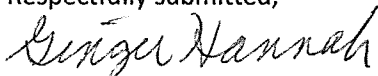
Chairman McCormick made a motion to define the Stewart's proposal as a gasoline service station and not a convenience store. Board Member Ramirez seconded the motion; all in favor.

The Board reviewed the minutes of the May 14, 2019 meeting. Board Member Provencher made one correction, page 3 – last paragraph – to read “Board Member Provencher decided to further evaluate the request.”

Chairman McCormick made a motion to approve the minutes of May 14, 2019 as corrected. Board Member Provencher seconded the motion. All in favor.

Chairman McCormick made a motion to adjourn the meeting at 7:40 p.m. Board Member Matulewicz seconded the motion. All in favor.

Respectfully submitted,



Ginger Hannah