

Village of Altamont Zoning Board of Appeals
Regular Meeting
February 11, 2020

Maurice McCormick, Chairman
Enforcer

Lance Moore, Building Inspector/Code

Danny Ramirez, Member
Kathryn Provencher, Member
Tresa Matulewicz, Member
Sal Tassone, Member

Jeff Moller, DPW Superintendent
Dean Whalen, Board Liaison
Allyson Phillips, Village Attorney
Ginger Hannah, Secretary

Applicant: Stewart's Shops: Chuck Marshall, Leah Everhart

of Guests: 41

Chairman McCormick opened the meeting at 7:05 p.m. and welcomed everyone. He noted where the exits and bathrooms were. He introduced himself and the Board as follows: Maurice McCormick, Chairman of the Zoning Board; Members of the Zoning Board: Kate Provencher, Sal Tassone, who is new to the Board; he was an Alternate and Isaiah Swart moved out of the Village, so this is his first time. Board Members Tresa Matulewicz and Danny Ramirez; Allyson Phillips, Village Attorney. This meeting is being recorded by a court reporter.

Public Hearing – On Stewart's Shops request for three variances. See Transcription of Stenographic Minutes by Nancy L. Strang pages 1-96, which includes the reading of the Public Notice and Public Hearing.

Chairman McCormick made a motion to leave the Public Hearing open for an additional 10 day period for just receipt of additional written comments. Seconded by Board Member Matulewicz. **Roll Call: All in favor.**

Board Member Provencher made a motion to approve the minutes of the December 10, 2019 meeting. Seconded by Board Member Tassone. **Roll Call: All in favor.**

Chairman McCormick made a motion to adjourn the meeting. Board Member Ramirez seconded the motion. **Roll Call: All in favor.** Meeting adjourned at 10:15 p.m.

Respectfully submitted,



Ginger Hannah
Secretary to the Zoning Board of Appeals

VILLAGE OF ALTAMONT

COUNTY OF ALBANY

ZONING BOARD OF APPEALS

PUBLIC HEARING AS IT RELATES TO THE PROPOSED
STEWART'S PROJECT LOCATED AT
1001 ALTAMONT BLVD/109 HELDERBERG AVENUE

THE STENOGRAPHIC MINUTES of the above entitled matter
by NANCY L. STRANG, a Shorthand Reporter commencing on
February 11, 2020 at 7:05 p.m. at 115 Main Street,
Altamont, New York

PRESENT:

BOARD MEMBERS:

MAURICE MCCORMICK, CHAIRMAN
DANNY RAMIREZ
TRESA MATULEWICZ
KATHRYN PROVENCHER
SAL TASSONE

ALSO PRESENT:

ALLYSON PHILLIPS, ESQ, COUNSEL TO THE BOARD
DEAN WHALEN, VILLAGE BOARD LIAISON
CHARLES MARSHALL, STEWART'S
LEAH EVERHART, ESQ.
MARTIN BURKE
ADRIAN BUSH
KRISTIN CASEY
JEFF COUNTERMINE
BETTY HEAD
MICHAEL MCNEANY
TED NEWMAN
JULIAN ROSENBERG
CAROL ROTHENBERG
PAUL SCILIPOTI
LAURA SHORE
JOHN SINCE
LAURA STELMASZYK
HARVEY VLAHOS
JUDY WALTERS-DINEEN
CLIFF ZUCKER

1 CHAIRMAN MCCORMICK: My name is Maurice
2 McCormick. This is Kate Provencher and Sal Tassone. Sal
3 is new to the Board. He was an alternate. This is first
4 time with us.

5 To my right I have Tresa Matulewicz, Danny
6 Ramierez and our attorney Allyson Phillips.

7 This proceeding is, of course, being
8 recorded. We have a court reporter who will be taking
9 down everything.

10 We have one item on the agenda.

11 Before we start that, I think our attorney
12 would like to say something.

13 MS. PHILIPS: Hi everyone. I just want to give
14 a little overview. I know most of you are here for the
15 public hearing tonight on the Stewart's application. I
16 know a lot of you have been involved in this process
17 from very early on with the Village's review of this
18 project. The Village Board has already gone through a
19 rezoning process and a SEQRA review and as part of that,
20 it was a series of public hearings that I'm sure most of
21 you attended.

22 I just want to make the public aware that the
23 proceedings before the Zoning Board of Appeals are
24 limited to the three area variance applications that
25 are before the Board. So, their jurisdiction in this

1 case is rather limited. It's just consideration of the
2 three variance requests based on the balancing
3 analysis that is in your Zoning Code. It is the ZBA's
4 role to weigh the benefit of granting the variances to
5 the applicant versus any detriment to the community
6 health, welfare and safety. That is the ZBA's role.

7 Part of that balancing analysis is they do
8 have to consider specific factors that are set out in
9 our Building Law. There are five factors for them that
10 they must consider as part of that balancing analysis.
11 They are confined to that standard.

12 So, tonight there is a lot of people in
13 attendance. We have received a lot of written comments
14 that have been provided to the Board. If you have
15 already submitted written comments, they are going to
16 be included as part of the record. You will not need
17 to reread those comments at the public hearing
18 tonight. They will be part of the record. We would
19 also appreciate it if you limited the duration of your
20 comments. There are a lot of people here tonight and
21 we want to make sure everyone gets an equal
22 opportunity to speak. So, we will ask that you be
23 respectful of your time and limit your comments
24 appropriately. Also, if you could provide your name
25 and address so that we get that for the record and we

1 could document that for the record and that will be
2 very helpful.

3 Also, in keeping with the limited scope of
4 jurisdiction of the ZBA, please focus your comments to
5 relevant considerations to this balancing analysis
6 that relates to the variance application. The Village
7 Board has already gone through a rezoning process and
8 made a determination to rezone one of the parcels that
9 is the subject of this application. That decision
10 cannot be reopened or revisited by the ZBA. The same
11 is true with respect to the SEQRA determination. The
12 Village Board undertook a coordinated review under
13 SEQRA and the ZBA was included as an involved agency.
14 So, that negative declaration is binding on them and
15 the SEQRA process has been concluded.

16 With that, I would just appreciate everyone
17 coming out tonight. I know this has been a matter of
18 great public interest. I know the Board is looking
19 forward to hearing your comments and again, I would
20 just ask that you try to keep the duration of the
21 comments limited so that everyone gets an opportunity.

22 CHAIRMAN MCCORMICK: Thank you.

23 With that, I will read the public notice.
24 Public notice of hearing before the Zoning Board of
25 Appeals. Notice is hereby given that the Zoning Board

1 of the Village of Altamont, New York, will hold a
2 Public Hearing pursuant to Article 355-38(E) of the
3 Zoning Law on the following proposition: Request of
4 Charles Marshall of Stewart's Shops Situated as
5 follows: 1001 Altamont Blvd/109 Helderberg Avenue Tax
6 Map #48.06-2-3 and 48.06-2-2, Zoned: CBD Special
7 standards and requirements: a Section 355 Attachment 2
8 - Setback Relief - Store Front-Yard to Altamont
9 Boulevard. Front setback required 10 feet max; Front
10 setback provided 104 feet; Requested relief 94 feet.
11 Section 355-38(E)(4) - Setback to Residential - No
12 building or other structure, except a fence, shall be
13 closer than 50 feet to any lot in a residential
14 district or any other lot used for residential
15 purposes. Provided 20 feet; Requested relief 30 feet.
16 Section 355-38(E)(11) - Minimum Lot Size - Gasoline
17 service stations shall be permitted only on lots of
18 40,000 square feet or more, with 150 feet minimum
19 frontage, and on corner lots a minimum of 100 feet of
20 frontage on each street or highway. Proposed size:
21 33,958 square feet; Requested relief 6,042 square feet
22 (15%) Plans open for public inspection at Altamont
23 Village Office, 115 Main Street, Altamont, NY 12009,
24 during normal business hours. Said Public Hearing will
25 take place on Tuesday, February 11, 2020 at the

1 Altamont Community Room, 115 Main Street, Altamont,
2 beginning at 7:00 pm.

3 That will open our public hearing part of
4 this.

5 MS. PHILLIP: I just want the public to also
6 know that the Board is not going to be making any
7 decisions tonight after the public comment portion of
8 the meeting. We have done a referral to the Albany
9 County Planning Board pursuant to 239(m) of the general
10 municipal law which is required for an application like
11 this. That requires at least a 30-day period to allow
12 them time to review it. So, that time has not run yet.
13 So, the Board will not be making any decision on the
14 variance applications tonight.

15 MR. VLAHOS: Will you be making a
16 recommendation?

17 MS. PHILLIPS: That's up to the County Planning
18 Board. We did a referral and they will either make a
19 recommendation, or they will determine that it is an
20 action with no countywide impact and they may not make
21 any recommendation. It's up to the County Planning
22 Board.

23 CHAIRMAN MCCORMICK: Mr. Marshall?

24 This is Charles Marshall from Stewart's and
25 the attorney - I have forgotten your name.

1 MR. MARSHALL: This is Leah Everhart. While my
2 formal name is Charles, I think everyone here has come
3 to know me as Chuck. I don't expect Christmas cards.

4 What I would like to do is go through the
5 supplemented information from the December meeting
6 that was submitted to the Village on December 27. I
7 will walk through that and I will walk through some of
8 the additional material that you have either developed
9 or reviewed and would like to add to the record.

10 Then, Leah will go through and talk about
11 some of the elements of the balancing test;
12 particularly in relation to the Environmental Quality
13 Review, as a determination has already been made.
14 Obviously after that, I will entertain questions from
15 the Board or if you would like to wait until after the
16 public hearing and then we can address the questions
17 that come up to the public - that's fine. You
18 certainly will have the opportunity after we're done.

19 At the December meeting there was some
20 concern about the lighting - the proposed photometric
21 plan that was submitted. Of particular concern was
22 that the legends or the symbols did not appear on the
23 plan. Those symbols which would be the green for a
24 soffit, the orange for regular pole lights and the
25 blue for back shielded pole lights have been updated.

1 We have updated the plan to include 4,000 Kelvin which
2 were requested versus the 5,700 as previously
3 submitted.

4 We then provided the cut sheets for those
5 light fixtures and the HVAC views. We updated the site
6 plan which is shown here to include a fence. That
7 fence is eight-feet tall.

8 What we have done since then as we have gone
9 through and began to develop a grading plan. One of
10 the comments in Nan Stoltzenberg's letter to the
11 Village - one of the concerns that Nan had was the
12 surrounds had the potential to vibrate which would
13 exasperate noise of the compressor and condenser on
14 the floor. So, what Stewart's proposes to do - and it
15 will not affect the site plan - is we propose to
16 install a two foot retaining wall and then place the
17 fence on top two feet to effectively -- from the
18 finish floor to the top so it acts as a 10-foot fence.
19 What that does is now the fence is still eight feet
20 which is allowed per the Code, but it eliminates the
21 ability for vibration because the condenser and
22 compressor will be backed to concrete versus a vinyl
23 enclosure.

24 MS. PROVENCHER: What will be the distance from
25 the fence from the back of the building?

1 MR. MARSHALL: From the fence to the back of
2 the building - it's not proposed to change. It seven
3 feet, but there is a slight drop. The building is one of
4 the three variances that we are getting. If you recall,
5 we are getting a variance from a residential structure
6 to a gasoline filling station.

7 What's important to note is that if this were
8 not being evaluated as a gasoline filling station and
9 just a building in the central business district, it
10 would be compliant and that it is supposed to be 20
11 feet from a residence to a building in the CBD.
12 Because is being reviewed as gasoline filling, the
13 additional 30 feet is required. That's why we are
14 seeking the variance.

15 The second variance is from the corner to the
16 store. Again, that variance is 94 feet. In the
17 application I wrote that that was substantial in the
18 definition of terminology, but not in the physicality.
19 I wanted to explain what I meant by physicality.

20 The 94 feet that we show them between the
21 maximum setback in the store is not vacant space. We
22 have constrained the site by using the mass of the
23 building to block the commercial activity to the
24 noncommercial site to the west. In the 94 feet we have
25 a row of parking circulation around the proposed

1 canopy which is non-existing at the current store.

2 One of the problems that the current store
3 suffers from is that it doesn't have circulation
4 around the outside. When someone occupies the outside
5 pumps with the trailer, it effectively shuts down
6 those two lanes. With the proposed parallel fueling
7 component, that improves the circulation and has
8 designated bays.

9 I want to use this to illustrate what we are
10 talking about (Indicating). If you have a vehicle
11 parked here, you are effectively eliminating
12 circulation around the outside. The proposed does
13 provide the designated lane. Additionally, cars won't
14 be stacked in the circulation space. They will be
15 parked using the canopy. So, this area in the aerial
16 is the current facility in the area underlined in
17 black is the proposed (Indicating).

18 The last thing that I want to show in regard
19 to the variances we are seeking - and basically the
20 fundamental design principle that we use for blocking
21 was the lighting.

22 This is the proposed photometric plan that
23 was given to our lighting vendor and a light
24 temperature display was made. So, the proposed
25 building is here (Indicating). The proposed canopy is

1 here. So, what you see is the backside of the building
2 is blocked. What remains an area of concern is the
3 dumpster enclosure here and this pole light. Pursuant
4 to your Code, that is the proper placement of the
5 building of the dumpster. Again, in the Nan
6 Stoltzenberg letter she agrees that it is place there
7 by Code.

8 One of the things that we think can be done
9 and we will not do this without Planning Board
10 authorization, should we get to that level, is if we
11 move the dumpster into those spaces here (Indicating).
12 We would have to relocate the parking to maintain
13 compliance, but we could eliminate this pole light. We
14 have parking that would be effectively blocked by the
15 fence and retaining wall. So, we can eliminate this
16 portion of the light on the site and then have the
17 view of the building block because of the height of
18 the building.

19 So, when you look at the finished floor which
20 is estimated to be 469, the finished floor or the
21 grade from 111 Helderberg Avenue is 474. So, you're
22 roughly 5 feet higher than our proposed finish floor.
23 Because the canopy is roughly 16 feet, the proposed
24 building was 34, that will be visible. So, everything
25 from here will be shielded by the mass of this

1 building as proposed.

2 Again, if we could relocate this pole with
3 the approval of the Planning Board, we can eliminate
4 light from that side, as well.

5 MS. PROVENCHER: I'm sorry Mr. Marshall, can
6 you just run through those numbers that you just gave
7 again?

8 MR. MARSHALL: Sure. The proposed finish floor
9 elevation of the store is 469 to the top of the cupola
10 which is approximately 34 feet. It gives the finished
11 floor elevation of 503. With the top of the cupola
12 approximately here (Indicating), that elevation is 503.

13 The spot elevation right around here is 474
14 (Indicating). So, effectively, the finish floor of our
15 building is proposed to be four feet lower than the
16 top of that. Our canopy is 14 1/2 feet tall to the
17 bottom of the soffit which is where the lights are.
18 That would have an approximate elevation of 481.
19 Again, because the building is 503, you won't be able
20 to see that 481 elevation.

21 MR. RAMIEREZ: I've a question. You mentioned a
22 cupola. Are you talking to the top of the cupola or top
23 of the main structure?

24 MR. MARSHALL: So, the top of the cupola would
25 be 503. The finished floor 469 and the top of the

1 building - - not the cupola - should the cupola be
2 removed by the Planning Board - - so, 469 plus 27 which
3 is 496. Again, to the peak of the roof it is effectively
4 22 feet taller than the grade at the adjoining property.

5 I have just a couple more things I wanted to
6 run through. There are more planning elements
7 regarding the effect on the neighborhood. The current
8 Stewart's has 107 feet of unrestricted curb. So, that
9 means there are no one-way in or one-way out driveways
10 anywhere on the site. The proposed Stewart's has 60
11 feet of unrestricted. So, that's an overall reduction
12 of 44%. When you talk about pedestrian access and
13 limiting the amount of unrestricted space where
14 pedestrians and vehicles can interact, there's a 44%
15 savings which is significant.

16 The current building, as you see, lacks any
17 pedestrian accommodation or accessibility which again
18 is included to the sidewalk entrance.

19 I will let Leah go through the balancing test
20 in relation to SEQRA. Then, if you have any questions
21 or comments -

22 CHAIRMAN MCCORMICK: I have one question. How
23 did you cut that to 44% to the unrestricted curb?

24 MR. MARSHALL: So, right now there is one
25 existing driveway. There's one existing driveway on

1 Helderberg and two on Altamont Boulevard. So, we
2 eliminated one in its entirety.

3 CHAIRMAN MCCORMICK: The one closest to Main
4 Street?

5 MR. MARSHALL: That's correct.

6 CHAIRMAN MCCORMICK: And that gets you to your
7 number?

8 MR. MARSHALL: Yes, it's two 30-foot driveways
9 as opposed to the three current driveways.

10 CHAIRMAN MCCORMICK: Is that standard for
11 Stewart's - 30 foot?

12 MR. MARSHALL: Yes, so, 30 foot is standard for
13 Stewart's. It's also standard, I believe, for New York
14 State DOT commercial driveways. One of the things that
15 we got into briefly in the December meeting, and we can
16 go through again tonight, is commercial driveways as
17 part of Appendix A of Chapter 5 of the New York State
18 Department of Transportation Highway Design Manual that
19 indicates that driveways should be placed at a minimum
20 distance of $2W + 15$; where W stands for the commercial
21 width of the driveway. So, at a minimum, commercial
22 driveway, a New York State highway or with a New York
23 State highway jurisdiction - - so, even though
24 Helderberg Avenue is in on New York State roadway, New
25 York State DOT does have jurisdiction over the

1 intersection. I believe it's 500 feet. So, this is
2 compliant. The proposed Helderberg driveway is compliant
3 and the radius terminates 75 feet here and then this is
4 over 75 feet. So, those of the minimum highway distances
5 as per New York State DOT standards.

6 CHAIRMAN MCCORMICK: Is that proposed, or what
7 we have now?

8 MR. MARSHALL: It's proposed. You can see here
9 that this driveway remains -

10 CHAIRMAN MCCORMICK: You're going to move that
11 further up Helderberg Avenue?

12 MR. MARSHALL: We will move it slightly up
13 Helderberg Avenue. In all instances, we are going to
14 replace the sidewalks. The elimination of the closest
15 driveway to Main Street is the largest benefit for
16 restricting that access. The minimum being 2W plus 15,
17 you get the sense that DOT has a standard and wants to
18 pull access away from intersections.

19 For me, that's it. I'm glad to answer any
20 questions.

21 CHAIRMAN MCCORMICK: The circulation you were
22 talking about, how long is that configuration been
23 there?

24 MR. MARSHALL: As far as I know, that's the
25 original configuration. The store was constructed in

1 1980. I believe there were modifications to the canopy.
2 I don't believe that the canopy itself was ever
3 relocated.

4 So, one of the problems with the current site
5 is that if you have a car parked in one of the spaces
6 and a car that is fueling, the separation between
7 those two vehicles is only nine feet. So, you have to
8 know that the car is there. What we are proposing is a
9 distance of 30 feet in not shared space for the
10 circulation. In 30 feet, you have enough room to back
11 out without backing into someone at the pump.

12 CHAIRMAN MCCORMICK: That's why you want the
13 building that much further back on the lot away from the
14 pumps.

15 MR. MARSHALL: Yes. Again, the design
16 principles are that we keep approximately 30 feet
17 between the rear parking and the gasoline fueling
18 canopy. Here we are proposing parallel parking on the
19 other side with the circulation lane between it. So,
20 pushing the building further back enables that space.
21 That's the physicality I was referring to. If we weren't
22 using the space for the function of our business, I
23 don't think it wouldn't be all that appropriate to ask
24 for that request. The commercial activity of the site
25 occurs in this roughly 94 feet.

1 Again, one of the things that we were
2 thinking about doing - - to the edge of the sidewalk
3 to the front of Altamont corners it's 99 feet. It's
4 not like you don't have facilities with relatively
5 large setbacks in the immediate proximity within the
6 same zoning district. Just so that we're
7 understanding, 94 feet is effectively five car
8 lengths. So, just to give you a sense of scale, 94
9 feet really sounds like a lot but when you consider
10 the row of parking, the row of driving, the gasoline
11 canopies which are 20 feet, another row of driving and
12 then perpendicular to parking which as per your Code
13 is 9 by 18 feet - - again, the number may sound
14 substantial but it's the use of the space in the
15 commercial activity that occurs with it.

16 CHAIRMAN MCCORMICK: On this new plan, are you
17 eliminating two parking spaces or three parking spaces?
18 You have how many parking spaces now? There's 24?

19 MR. MARSHALL: I believe the last time we had
20 24.

21 CHAIRMAN MCCORMICK: It kind of caught my eye
22 that you're counting to spaces of the new plan for
23 public parking or something like that.

24 MR. MARSHALL: The existing is 25 and we
25 proposed 26, which is only the addition of one space.

1 Then, there's an indication that there is a 20% credit
2 if your municipal parking is accessible in reference
3 to -

4 CHAIRMAN MCCORMICK: That's right. Where's that
5 municipal parking?

6 MR. MARSHALL: That's here at the library.

7 One of the things that happens with the
8 current store that will not happen with the proposed
9 store is that when someone has something in tow, they
10 occupied the two old gasoline fuel spaces and used
11 that as a parking space. With this, there will be
12 adequate space where that won't happen and it does
13 circulate around. So, some of the parking won't be
14 occupied all the time. We are very comfortable with
15 this statement that most of us or all of us have been
16 to the store and the parking on all four sides of the
17 building is not conducive to use because people rarely
18 use the parking on the backside of the store. So,
19 while there are 25 spaces shown, I would say that the
20 store effectively runs with the four spaces on the
21 front of the building, the five spaces on the side -
22 so, nine.

23 Operationally, I would say the current store
24 only has 15 spaces that are in use.

25 CHAIRMAN MCCORMICK: When I go in there, if

1 there is a trailer, most of the time they do park back
2 by the dumpster.

3 MR. MARSHALL: If you're not fueling.

4 CHAIRMAN MCCORMICK: If you're not fueling.

5 MR. MARSHALL: Again, it's very safe to say
6 that in the capital district we have all been to a
7 Stewart's. How many people move their car after they get
8 gas?

9 CHAIRMAN MCCORMICK: So, the bottom line is
10 that you have 25 spots.

11 MR. MARSHALL: Well, it's up to 20% so that
12 would be an additional five. So, it would be 30.

13 MS. PROVENCHER: So, that 20% is not included.

14 MR. MARSHALL: That is not included in the
15 calculations. Of the 26 proposed spaces, those are
16 delineated on the plan. Then, you have an additional 20%
17 for the parking in the municipal lot.

18 CHAIRMAN MCCORMICK: By the library?

19 MR. MARSHALL: Correct. There will be 39 spaces
20 if you use that and 26 spaces on site.

21 CHAIRMAN MCCORMICK: Because you're counting
22 the parking spaces at the pumps. Every pump has a
23 parking space.

24 MR. MARSHALL: That's correct. That's under the
25 assumption that people do not move. Some municipalities

1 have Codes that indicate parking can or cannot be
2 counted at the pump. Your Code is mute on it.

3 MS. PROVENCHER: In regards to the parking,
4 what Section of the Code are you using for determining
5 how many spots the business has to have? I'm looking at
6 the Section 5522 off-street parking requirements.

7 MR. MARSHALL: A convenience store is one space
8 per 100 square feet of gross square footage. The
9 gasoline fueling is one per bay.

10 MS. PROVENCHER: One per gas pump nozzle, one
11 space for each bay and one space for each employee. So,
12 it seems that you are well over.

13 MR. MARSHALL: Yes.

14 MS. PROVENCHER: For our Code, anyway. I
15 thought at the last meeting you said that you thought
16 you needed that for the business.

17 MR. MARSHALL: We do.

18 MS. PROVENCHER: So, we are not having to count
19 municipal parking spaces. That's not required.

20 MR. MARSHALL: No, it's just indicated that we
21 can in the Code. The Code allows it.

22 MS. PROVENCHER: The Code allows it, but you
23 don't need that. The minimum is not close to 24.

24 MR. MARSHALL: Under gasoline filling it would
25 be one per nozzle so, that would be four. Then, one per

1 employee. The max shift would be six. I believe that
2 those are minimum standards.

3 MS. PROVENCHER: I'm just making that point.

4 MS. EVERHART: So, I guess as just a
5 housekeeping measure, it's my impression that -
6 Stewart's made an initial variance application. Then
7 there was an appeal of an underlying zoning
8 determination that resulted in the current application.
9 It is my impression because this happened pretty
10 recently that the Board obviously recalls this and is
11 not pretending like you have no idea about the
12 background here. It's also my impression that the record
13 is inclusive of those materials, as well. Is that the
14 case, or do we need to resubmit those materials in order
15 to get them into the record of this proceeding?

16 MS. PHILLIPS: My understanding would be - the
17 application of the area variance is a new proceeding.
18 So, I would not say that those materials are in the
19 record. If they are relevant to the new application and
20 you would like to submit them -

21 MS. EVERHART: I do think that they are
22 relevant. I don't know that the Board wants me to FOIL
23 to get all the materials, plus all the public comments,
24 plus everything and then resubmit it to you all again,
25 because it is in your offices. Do you want me to go

1 through that process, or do you want to just deem those
2 materials be part of this record?

3 CHAIRMAN MCCORMICK: I'm going to refer to
4 Allyson.

5 MS. PHILLIPS: It's not clear what materials
6 you're talking about.

7 MS. EVERHART: The entire record.

8 MS. PHILLIPS: There had been a prior appeal
9 from a determination of the Code Enforcement Officer.
10 That was a prior proceeding.

11 MS. EVERHART: No, there were two prior
12 proceedings. There was a zoning application - variance
13 application made. It was premised upon a formal written
14 determination of the zoning administrator. Then, there
15 was an appeal of that determination which resulted in a
16 determination as to the classification of this use.
17 That's what prompted these requests for variances and
18 the calculation for these requests. That's why this is
19 really all the same project. It has always been the same
20 project. It's just whether or not you are accounting
21 those previous submittals as part of what's in your mind
22 as you are review this application.

23 MS. PHILLIPS: Was that the determination of
24 the Code Enforcement Officer that was made?

25 MS. EVERHART: Right. Only one aspect of the

1 Zoning Officer's determination was at issue. The
2 remainder of his determination resulted in some of the
3 variances that are being requested. What ultimately came
4 out of that was the determination that instead of this
5 being a convenience store with gas service, it's a
6 gasoline filling station. That's what prompted some of
7 the dimensional locations and requirements that we're
8 talking about tonight.

9 CHAIRMAN MCCORMICK: So, what exactly is it
10 that you are uncomfortable with? You stated all the
11 facts correctly, but what exactly is the issue?

12 MS. PHILLIPS: If I may, the determination was
13 made that this is a gasoline filling station. You went
14 through proceeding before the ZBA and that was the
15 outcome of that proceeding. Are you pursuing a prior
16 variance application that you have submitted?

17 MS. EVERHART: No, I want to make sure that the
18 record of this proceeding completely reflects the
19 history leading up to this application.

20 MS. PHILLIPS: I think that the record is clear
21 that your proceedings for variances to construct a
22 gasoline filling station was a project that was reviewed
23 under SEQRA. As far as whatever documentation or public
24 comments that were made in prior ZBA proceedings -

25 MS. EVERHART: We can resubmit it. We will

1 resubmit it.

2 CHAIRMAN MCCORMICK: What is it that you're
3 going to resubmit?

4 MS. EVERHART: All the materials you already
5 have in your office. I'd rather you just determine that
6 it's part of the record, but you don't want to go
7 through that so I will resubmit.

8 MS. PHILLIPS: How are those records relevant
9 to these various applications which are different from
10 the original variance application you pursued and
11 different from the appeal?

12 MS. EVERHART: I didn't mean to sidetrack us. I
13 thought this is just going to be a two-minute
14 discussion. Just by way of query quick example, Chuck
15 tonight mentioned that one of the reasons that one of
16 our variances on paper is significant is because of the
17 determination of the sort of uses. The structure itself
18 that is on the west end of our property doesn't dispense
19 gasoline and has nothing to do with the fueling station.
20 It's commonly referred to as a convenience store. If it
21 were simply a convenience store with no gas service on
22 the site, the location of the structure would be Code
23 compliant. It's because of calling this thing a gasoline
24 service station - somehow we got very far away from that
25 line. That's an example of how Chuck was explaining the

1 history of why we are where we are to evaluate the
2 balancing test that technically you don't have the
3 material into the record.

4 MS. PHILLIPS: I would encourage you to put
5 whatever information you feel is appropriate and
6 relevant to this application and not resubmit materials
7 from six months ago that you submitted in relation to
8 another application that you're no longer pursuing. If
9 you think whatever information you submitted previously
10 is relevant to this application, I would recommend that
11 you submit it in support of this application and not
12 take materials that were submitted on another
13 application and just resubmit them. It is in your
14 interest to present to the Board their relevance to this
15 application.

16 MS. EVERHART: We will do whatever you want. We
17 were just trying to make it simple. Obviously, I failed
18 entirely at that. We didn't want to pepper you with
19 documents just so that you would have an additional copy
20 of everything that you already have. If you want us to
21 do that, we are happy to do that.

22 MR. MARSHALL: Sometimes laypeople, no offense
23 to all the lawyers in the room - lawyers are
24 overcautious.

25 So, basically the determination that I have

1 classified as gasoline filling on the record with our
2 application to show why we are seeking the variance
3 that we are seeking - I think that's what we are were
4 alluding to. We would just be establishing why these
5 are the variances that we are seeking, versus an
6 elaborate new record. We will submit the paperwork. We
7 have it. I think Leah was trying to make sure that you
8 have it too. It's something that got sidetracked as a
9 bigger issue. It will be in the next submission.

10 MS. EVERHART: So, before we get into the
11 balance, actually as a result of one of the criteria -
12 the feasibility issue. First and foremost the current
13 Stewart's site - the way Stewart's is currently
14 operating and has been since 1980. That is a
15 pre-existing non-conforming Stewart's shop not because
16 the use is unlawful in the Zoning Code, but because of
17 the dimensional requirements and limitations of the
18 current Zoning Code that are impacting this application.
19 The current Stewart's site does not comply with the
20 current Zoning Law. It predates it, meaning that
21 Stewart's came in, invested in the property, built it up
22 and then the world changed around it. The zoning changed
23 around it; it happens. It happens to every property
24 owner, eventually. So, the current site is not compliant
25 with the current law. We are allowed to continue on, but

1 it's not compliant currently. One of the reasons is the
2 size. We are proposing to increase the size.

3 I did review some of the public comments that
4 have come in so far. I saw some criticisms, so to
5 speak, with efforts to obtain a variance in order to
6 make ourselves more Code compliant with the minimum
7 lot size. We don't really think that's a fair
8 criticism. We are currently on a lot that is much
9 smaller. We're increasing the size - not a huge
10 amount, but we are increasing it which means we are
11 bringing it into greater conformity with the current
12 laws.

13 As far as the location of the structure,
14 because we are defining this as a gasoline service
15 station, there are some impacts upon where the Code is
16 anticipating the structure will be built. So, there is
17 a desire to have the structure close to the road.
18 There are some practical realities that prevents
19 Stewart's from doing that. It's not feasible to do
20 that.

21 Chuck will jump in if I am wrong and will
22 correct me if I am wrong.

23 CHAIRMAN MCCORMICK: What you are saying is
24 bring the store closer to the sidewalk. That has been
25 suggested, but you're saying that's not feasible?

1 MS. EVERHART: That's correct.

2 I'm actually going to let Chuck cover the
3 feasible alternatives aspect of it. We just had a
4 little sidebar over there. We're going to discuss that
5 with the Board and it will give us an opportunity to
6 reflect on the comments and give you any further
7 input.

8 I'm going to mention the other criteria. I
9 submitted a letter today. It was obviously somewhat
10 last-minute. It's not too late to submit, but I don't
11 expect you all to have had the time to review it. I'm
12 not going to read from it because that's a waste of
13 your time. The general principle of it is that - the
14 Village Board served as SEQRA lead agency, meaning
15 that under the State Environmental Quality Review Act
16 there are a bunch of governmental entities that have
17 some decision-making authority over this - over what
18 Stewart's wants to do. Each one of those is identified
19 as what's called an involved agency. So, the ZBA is an
20 involved agency, the Planning Board is an involved
21 agency and the Village Board is an involved agency.
22 The Village Board conducted what is called a
23 coordinated review which really just means instead of
24 each of the involved agencies having done their own
25 SEQRA review resulting in potentially different

1 determinations, a single entity did it. Here, it was
2 the Village Board. The State Environmental Quality
3 Review Act set forth 11 areas of consideration for
4 that Board.

5 The results of multiple public hearings is
6 that the Village Board adopted what's called a
7 negative declaration meaning there were no significant
8 environmental impacts identified by the lead agency
9 that are likely to occur as a result of this. That
10 absolutely is not required that subsequent
11 applications be granted. That's not what we are
12 saying. We are not saying that you are required to
13 grant or that the Planning Board is required to grant
14 anything. What we are saying that though is that the
15 Village Board considered a lot of factors that are
16 also relevant to this Boards review. The Village
17 Board's consideration is binding, it's facts and
18 conclusions - those are all part of your
19 administrative record. When you make a conclusion -
20 when you make a final determination on a variance
21 being requested you are legally obligated to make a
22 determination that is well supported by the record.
23 That doesn't mean that a negative declaration is
24 issued and that you necessarily have to approve a
25 variance. The more incongruent the different

1 determinations are, the more likely a Board is to have
2 done what they are not supposed to do which is make an
3 arbitrary decision.

4 There are two criteria in the balancing test.

5 CHAIRMAN MCCORMICK: I have a question. Is that
6 in your letter?

7 MS. EVERHART: It is. I just summarized it.

8 CHAIRMAN MCCORMICK: So, pretty much you are
9 saying that whatever the Village Board decided, we
10 should decide and there also could be a legal challenge
11 to it?

12 MS. EVERHART: So, just to be clear, and
13 issuance under New York Law - the fact that a SEQRA
14 review effort concludes a negative declaration of no
15 significant environmental impacts does not require any
16 subsequent applications to necessarily be granted. What
17 I am saying is that the determination reached by the
18 Village Board are relevant and should be taken into
19 consideration by this Board because they are part of
20 your record. Everything that is submitted to this Board
21 should be taken into consideration, but weight should be
22 given to a determination reached by a SEQRA lead agency
23 after multiple public hearings. So, there are two
24 criteria that you are charged with considering in the
25 context of area variances that relate pretty closely to

1 the same sort of facts that were relied upon and found
2 by the Village Board.

3 CHAIRMAN MCCORMICK: To have them specifically
4 listed in there?

5 MS. EVERHART: The five criteria for area
6 variances - there are two that are particularly relevant
7 because they reference environment and surrounding
8 properties. One of them is: Will an undesirable change
9 to the character of the neighborhood, or will a variance
10 result in an undesirable change to the character of the
11 neighborhood or be a detriment to nearby properties.
12 That is one.

13 The other is: Will a variance have adverse
14 effects on the physical or environmental conditions
15 and the neighborhood or district?

16 They are not asking you to conduct SEQRA
17 review. You obviously can't in this matter. What I'm
18 saying is those factors - I think you can see how
19 those overlap closely with the sorts of considerations
20 that are taken under SEQRA review. I'm just pointing
21 out that the very, very thorough 15 page or so
22 negative declaration that was issued by the Village
23 Board, which is part of your record, cover facts that
24 are relevant to those criteria. I think the Board
25 should take this into consideration.

1 CHAIRMAN MCCORMICK: Do you have in your letter
2 specifically referencing those two with the findings of
3 the Village Board?

4 MS. EVERHART: I do.

5 CHAIRMAN MCCORMICK: What you're saying then is
6 there is no impact -

7 MS. PHILLIPS: What the Board is going to have
8 to do is you have to consider relevant facts in the
9 record. She's talking about a determination that could
10 be arbitrary. The definition of arbitrary is
11 disregarding the relevant facts. You have facts in your
12 records and some of them relate to the SEQRA
13 determination that was made by the Village Board. I
14 think what Leah is saying but we said on the onset is
15 the Board can't revisit SEQRA, but you have to make the
16 determination on the considerations in granting the area
17 variances. To the extent some of the facts that are in
18 your record that the Board also relied on in reaching a
19 negative declaration - you are required to take those
20 into consideration in doing your balancing analysis. You
21 have to take into account all the facts. So, you are not
22 bound by any determination that was made by the Village
23 Board other than their determination of no significant
24 environmental impact under SEQRA. You make the
25 determination in the balancing analysis on the area

1 variance application taking into account the same facts
2 that are in the record for the Village Board.

3 I want to be mindful of the time. It's
4 already 8 o'clock and there are a lot of members of
5 the public and I want to make sure that everyone gets
6 an opportunity to speak.

7 MS. EVERHART: As far as substantial, that's
8 obviously a criteria that this Board, I'm sure, has
9 handled in the past. Most Boards, I can tell you from
10 personal experience, sort of have a number in their mind
11 as far as what percentage of variances are substantial.
12 That's not technically what the criteria is though.
13 Technically the criteria is supposed to consider the
14 magnitude of the impact created by granting the area
15 variance and not simply what is it on paper but the
16 magnitude of the impact. One way of considering that is
17 what is the difference between granting and denying of a
18 variance? What will that result in? What is the status
19 quo of the property? Why is it being requested? What is
20 the alternative? We would asked the Board to please
21 consider that and not just a number on paper because
22 that's not the entire analysis. It is supposed to be
23 fact a specific analysis based on why are we here and
24 what prompted us to be here. What do we need in order to
25 make the same function?

1 As far as self-created, I think most Board
2 Members in your seat will say most area variances are
3 self-created. Sometimes other Board Members say things
4 like well, they're asking for it. They want to have an
5 addition, so it self-created. It's really not the
6 test. When a property is purchased and the world
7 changes around them - the Zoning Law changes around
8 them - when the hardship was difficult to then comply
9 with those newly adopted limitations, that is often
10 identified as a non-self-created hardship. Obviously,
11 Stewart's has purchased a lot next door. Obviously, it
12 has undertaken subsequent efforts. So, certainly there
13 is room there, but we just want to remind the Board
14 that this is all starting because we had a
15 pre-existing nonconforming lot that we can't comply
16 with the current Zoning Code. We couldn't build today
17 what was out there now. We can't reconfigure it on
18 that lot. That's why we are here. That is the
19 hardship. Thank you.

20 CHAIRMAN MCCORMICK: Is there anyone who would
21 like to come forward and make a comment?

22 If you could state your name and address.

23 MS. SHORE: Sure. I am Laura Shore and I live
24 just outside the Village. I'm speaking on behalf of Fran
25 Porter who lives at 1119 Berne Altamont Road. So, it is

1 just up the hill.

2 Fran couldn't be here tonight and she asked
3 me to speak for her.

4 She says let me say that I have lived in my
5 current home for 35 years just above the Village. All
6 the while I have lived here I have felt a strong
7 connection to Altamont. I'm grateful to all the people
8 who previously spent time in creating a thoughtful
9 Comprehensive Plan to ensure the Village's continuity.
10 The Stewart's plan does not respect the communities
11 character, ensure its continuity or respect its
12 neighbors. The zoning variances requested by Stewart's
13 are for a design that would call attention to itself
14 as an out of scale commercial enterprise, having an
15 overly large store with so much pavement and lighting
16 and extensively removing trees and disrupting root
17 systems to crease green space and create a potential
18 safety problem by permitting increased car speeds and
19 the larger lot.

20 In granting variances, the Zoning Board must
21 take into consideration specific factors set out by
22 the New York State Department of State. These factors
23 provide guidance on whether the variances requested
24 would produce an undesirable change to the character
25 of the neighborhood and would be detrimental to nearby

1 property. The ZBA must also weigh whether the benefits
2 sought can be achieved by some other method - whether
3 the variances substantially affect the environment.

4 Lastly, the Board must look at whether the
5 alleged difficulties are self-created. I believe all
6 the variances that Stewart's is requesting should be
7 denied under the Department of State guidelines. I
8 would like to stress a couple of points that I think
9 are important. As I understand it, Stewart's can
10 achieve an expansion without the substantial variances
11 they are requesting by closing its business during
12 construction. Stewart's, by not closing temporarily,
13 creates an unfair burden on several neighborhoods and
14 particularly the residence at 111 Helderberg Avenue.
15 The neighborhood suffers from having a very large
16 building a mere 20 feet from their home. The increased
17 noise, loss of privacy and loss of property value
18 should not be weighed so heavily by a single neighbor.

19 Another critical point to raise is whether
20 the alleged difficulty is self-created. The required
21 lot size of 40,000 square feet was never going to
22 accommodate the expansion plan without variances.
23 Stewart's proposed lot size of 33,000-plus square feet
24 was too small by about 6,000 square feet and there was
25 no additional land for Stewart's to buy. It was a

1 problem from the onset. Variances were going to have
2 to be obtained. Stewart's took a financial risk in
3 purchasing 107 - 109 Helderberg Avenue after the
4 Village turned down its expansion plan in 2014.
5 Without consulting the Village, Stewart's moved
6 forward with buying a lot intending to tear down the
7 house, obtain a rezoning for the property and build a
8 new store. The community is not obligated to now grant
9 variances after the fact.

10 Stewart's should go back to the drawing Board
11 and develop a design that can be achieved without
12 obtaining three variances for lot size and setbacks.
13 Thank you, again, on behalf of Fran Porter.

14 CHAIRMAN MCCORMICK: Thank you.

15 MR. ZUCKER: My name is Cliff Zucker and I live
16 at 114 Helderberg Avenue. We are one of the homes
17 within 500 feet of the land that is requesting a
18 variance. I think the essential reason we're here is to
19 find out whether the rules apply to Stewart's.

20 First, Stewart's seeks to set back the store
21 104 feet from the road - the 94 foot variance. If you
22 look around the Village, you can understand why the 10
23 foot setback is in the Village requirements. All the
24 stores on Main Street are near the sidewalk because
25 this is supposed to be and we are trying to foster a

1 pedestrian friendly Village. We are pedestrians who
2 use the sidewalks to enter establishments without
3 having to cross parking lots. If you look at all the
4 stores on Main Street; the auto parts store on the
5 boulevard and even if you look at the new SEFCU credit
6 union building, that's built right close to the road
7 and you can enter the credit union without crossing a
8 parking lot if you are pedestrian. Now, they point to
9 the building - - it's really irrelevant because that
10 was a pre-existing building prior to the rules that
11 they are seeking a variance for. Like Stewart's, they
12 were grandfathered in and that would be allowed today
13 under the rules that are applicable.

14 The intention of the zoning, I believe, is to
15 ensure that Altamont does not become a sea of strip
16 malls like so many urban communities. There is no
17 reason why Stewart's can't build its new structure
18 within the 10 foot setback which would be consistent
19 with the majority of commercial businesses in the
20 Village.

21 Secondly, Stewart's wishes to build its store
22 20 feet rather than 50 feet from Carol Rothenberg's
23 home. This is really adding insult to injury. Carol
24 Rothenberg for decades has lived in a residential
25 district. Her house is surrounded by other residential

1 homes. The Village has rezoned her neighboring
2 property for the Plan B which is to tear it down. To
3 then place the new commercial structure within 20 feet
4 from her property, it unnecessarily devalues her
5 property and impairs her enjoyment of her property.
6 That is something that you should honor. She is a
7 longtime member of the community and lived in the
8 beautiful home that she has lovingly maintained which
9 is an asset to the quality of life in the community.
10 That would put a commercial structure really right on
11 her doorstep. It is outrageous. It's not necessary.
12 They can comply with the rules that everyone else has
13 to comply with.

14 In addition to that, they seek a variance -
15 they want to build the station on a lot which is not
16 under our Code big enough for a gas dispensing
17 station. They are being greedy. They have a
18 pre-existing use and they are therefore permitted to
19 operate in violation of the Code. That doesn't give
20 them a blank check to expand their non-conforming use,
21 which is what they are seeking.

22 So, for all of those reasons, the variances
23 should be denied. I think you for listening to me.

24 CHAIRMAN MCCORMICK: Thank you.

25 MS. HEAD: I am Betty Head and I live at 111

1 Lincoln Avenue, here in the Village. I would like to
2 call a game of process that I think has been going on
3 with the Stewart's effort to expand its franchise which
4 is exactly what it is.

5 Some months ago when I was reading about a
6 town that had been the site of great profits taken
7 from its mineral deposits mined by a large company
8 over decades, I was struck by the pattern of that
9 particular town and numerous other towns that I have
10 become interested in over time. The story is always
11 the same, I said to myself. Big business moves in.
12 That's what it wants because of the cost of jobs and
13 more jobs in over a period of perhaps 30 or 40 years,
14 the good times roll for the local residents. The
15 people breathe the heavy air from the smell of the
16 smoke stacks. People start to get sick and even their
17 children. More people get sicker. Some die, due to
18 illness while working for that particular company and
19 then eventually it gets figured out that the fair
20 people of the town have made a bargain with the devil
21 for a steady paycheck. But we're not talking about
22 that sized corporation tonight. I do believe that we
23 are talking about Stewarts' decision to make a gut
24 punch whole in the Village's Comprehensive Plan. Their
25 plan to do this, in my opinion, is a smaller version

1 of the big companies belief that they can move into or
2 expand their interest into a small community and cut a
3 wide swath with blatant disregard for the prevailing
4 interests of the majority of its citizens. I call this
5 corporate colonialism.

6 The crucial litmus tests for corporate
7 colonialism are the following: What are the present
8 and long-term benefits of violating the voice of the
9 people? In the instance of Altamont, that voice is
10 laid out in the Comprehensive Plan. If Stewart's truly
11 had wanted to listen to the voice of the people, it
12 would not have asked for the three variances that are
13 needed to secure their plans for expansion.

14 Who stands to benefit from the Stewart's
15 expansion? In my opinion, Stewart's and only Stewart's
16 does. They are doing this because they can. They are
17 pushing. They are stepping broadly and expect to
18 determine where is Altamont's line in the sand?

19 There is no overarching concern for the
20 future or well-being of the community. The future will
21 present itself soon enough when another
22 developer/applicant comes along in 5 or 10 years or
23 sooner and wants the same dispensations and special
24 treatment given to Stewart's. If indeed, their
25 variances are granted, Stewart's is not guarding the

1 history, the architecture, the uniqueness or special
2 allure that brings young families and newcomers to
3 this Village. We are; the residents. The people who
4 live there and pay taxes and walk the sidewalks and
5 take care of her families. We are the people who live
6 there.

7 First, Stewart's can up and leave at any
8 point in the future. Say they were bought out by
9 another larger corporation and that corporation
10 decided to abandon the site that the new and expanded
11 Stewart's has moved into. We, the residents, are left
12 with this hulking piece of concrete to dominate the
13 center of our Village. It will become an eyesore of
14 our Village. To me, Stewart's vision must not be
15 recognized as our vision and not the vision of the
16 residents of Altamont. To me, yes, this whole affair
17 has been corporate colonialism only on a much smaller
18 scale. It needs to be recognized for what it is. Thank
19 you.

20 CHAIRMAN MCCORMICK: Thank you.

21 MR. VLAGOS: We're talking about the Board's
22 responsibility to comply with the SEQRA. The obligation
23 to consider the findings of the SEQRA. We just got part
24 three of the SEQRA not too long ago. We still think
25 there are significant issues in the agreement of some of

1 those things. I'm not going to go to the whole thing.
2 All of these comments are going in as part of the
3 record, correct?

4 MS. PHILLIPS: Public comments that have been
5 received for this application, yes

6 MR. VLAGOS: Is the process for actually
7 considering them - it's like checking off - reading all
8 of these

9 CHAIRMAN MCCORMICK: All the public comments?

10 MR. VLAGO: Yes.

11 CHAIRMAN MCCORMICK: We have been reading a lot
12 of them as they come in. We had a lot more come in
13 today. This public hearing is not going to end today.
14 That will allow everything that is said here to sink in
15 and let us think about it and it will also allow us to
16 read each and every one of those comments that came in
17 today - some of them after 12 today.

18 MR. VLAGO: The process after that - - the
19 hearing is not going to be closed, correct, from a
20 technical point of view? It's going to remain open, or
21 be adjourned or whatever?

22 CHAIRMAN MCCORMICK: What the intention is
23 going to be is to keep the hearing open, but the public
24 comment will only be open for 10 more days. That will be
25 in writing or emails or something like that where we can

1 print it out and consider it. More than likely, we're
2 not going to meet again until March 10. That's what the
3 plan is.

4 MR. VLAGO: One of the issues is I am one of
5 the members of the CSN and we're the ones that initiated
6 the Article 78. So, we still have some issues with
7 SEQRA, as it is. It's part of my question. How much are
8 you obliged to take - I wouldn't say gospel, but I think
9 there are issues and there's a big variance between the
10 action of the Board and the SEQRA conclusions that is
11 presented by the Village Board. I can give you one or
12 two examples. I know there's like 10 days to get this
13 in.

14 For instance, the impact that's going to be
15 made is talking about one of the issuances the zoning
16 and that 107 - 109 have been commercial for a while.
17 The house is 120 years old. The period of time that
18 was commercial was very small. The people that lived
19 there before; assuming they were there for 16 years, I
20 think. So, you're probably going back to residential.
21 In one respect it's almost moot because the
22 Comprehensive Plan which is the voice of the people in
23 the plan said this is where we want the line. So, if
24 anything should be considered - the fact that it was
25 considered once upon a time that residence was

1 commercial probably should not have any bearing on
2 that. That could be one of those issues that you
3 should think about when you are examining the SEQRA.

4 MS. PHILLIPS: The Village Board has Artie made
5 the determination to rezone that parcel. That
6 determination was binding on this Board and their zoning
7 determination and making that determination to rezone
8 that parcel - the Village Board has determined that
9 zoning change is in compliance with the comprehensive
10 plan. That was the determination of the Village Board.
11 That is not a determination that can be revisited by
12 this Board. The property has been rezoned for commercial
13 use. So, commercial use is permitted on that parcel. We
14 now just need to consider the Stewart's plan in relation
15 to the specific balances and tests for area variances.

16 MR. VLAGO: Right, but now is that not subject
17 to another article 78?

18 MS. PHILLIPS: Any determination of this Board
19 will be reviewable in an Article 78 proceeding.

20 MR. VLAGO: Also, that time has not passed so
21 it could also be done with the Village Board
22 conclusions.

23 MS. PHILLIPS: Any determination by the Board
24 can also be challenged in an Article 78 proceeding. That
25 has no relevance on the ZBA's review of this application

1 - whether somebody chooses to initiate an Article 78 to
2 challenge the determination. That determination is in
3 effect right now.

4 MR. VLAGO: I guess just a couple of things. I
5 just want to make this as brief as possible. The New
6 York State Law states that the effect of the adoption of
7 the Village Board against Plan A. All Village land use
8 regulations must be in conformance with the
9 Comprehensive Plan adopted pursuant to the section - -
10 that's kind of where we are at, really. These are the
11 people who said this is what we want the Village to be.
12 So, everything should come from that. That's for you to
13 get into these other issues of is it going to create a
14 negative effect. According to the plan, yes.

15 There are some other things could possibly
16 affect an Article 78 against the Village. They were
17 saying that it's not contiguous, but yet Nan herself
18 said that it should be considered contiguous. There
19 are some issues that are still out there. One of the
20 things that I would like to get a response from - - is
21 there something like the Code of a Part III SEQRA for
22 when they come to the conclusion that they can -

23 MS. PHILLIPS: Sir, there are a lot of people
24 here that want to make a public comment. We have
25 answered some of your questions I think the Board would

1 like to go through your comments and receive them into
2 the record -

3 MR. VLAHOS: I would suggest the issues of
4 precedents, which has been touched on and also the
5 property around the post office in an attempt to rezone
6 that. There is an issue out there about that, I guess.

7 The reason I ask about the response and the
8 conclusions is it needs to be articulated what is the
9 Village going to get out of this? There is the
10 character of the Village that is at stake.

11 CHAIRMAN MCCORMICK: Thank you.

12 MS. BUSH: Hi, I am Adrian Bush and I live at
13 260 Brindl Road. I moved here when I was one-year-old so
14 I've been here long time. Maybe not as long as some of
15 you.

16 I am listening to a lot of these comments and
17 I can't believe that we're listening to some of this
18 because really I think we should be saying thank you
19 to Stewart's for dedicating so much effort and time
20 into trying to appease so many opinions. No matter
21 what, we're not going to please everybody. So, I think
22 we need to come to a settling moment where we can say
23 Stewart's has gone above and beyond for our Village
24 and since I've been here, they have been the only
25 business that has really been here the duration of my

1 entire life that I've lived here. I have chosen to
2 raise my son here. They are trying to appease as many
3 people as they possibly can. No matter what, they're
4 not going to please everybody. So, I really think that
5 we need to look at Stewart's and say thank you for
6 going above and beyond in dedicating as much as they
7 have to our Village. They are really, really trying
8 hard to help us.

9 It is my understanding the lighting is one of
10 the concerns. As a parent, I remember being a child
11 and my mom telling me I couldn't cross the railroad
12 tracks because it was dangerous on that corner. Having
13 lighting up there and increasing the space around the
14 pumps and within the parking lot - - I'm going to feel
15 safer when my son gets to be old enough to ride his
16 bike up there. Believe me, he's going to want to. I
17 see my neighbors wanting to do it now. It's a
18 dangerous little spot. If they are going to give us
19 more sidewalk space and more room for cars to have
20 space to move around in better light at night - -
21 there are so many events in the park and things that
22 people hang out until it's dark and then they go get
23 ice cream afterwards. They are increasing the safety
24 for our children and our community by looking at our
25 complaints and our concerns. So, I think we need to

1 look at the big picture.

2 We really should be saying thank you to
3 Stewart's for listening to us and really trying to
4 meet all of the concerns that have been brought up. I
5 think they've gone above and beyond for us. Thank you.

6 CHAIRMAN MCCORMICK: Thank you.

7 MR. COUNTERMINE: I'm Jeff Countermine at 4
8 Greg Road in Altamont. I wrote a letter already, but my
9 wife wrote a letter and she didn't want to be here
10 tonight. She had something going on.

11 She is writing to request that we approve the
12 zoning changes for the new Stewart's shop. She feels
13 that we could really use a new shop to replace the old
14 one. Having a newer bigger shop will give us a better
15 selection of items, plus alleviate the cramped parking
16 lot by moving the shop farther back. At certain times
17 of the day, the parking lot is very hard to get in and
18 out of because of the cramped size of the parking lot.
19 She knows that some of the people are upset about
20 having a new shop but she doesn't think it's going to
21 hurt us at all and will improve things. In no way did
22 she feel that the new shop will destroy the character
23 of the downtown, as someone stated. We are a quaint
24 and charming Village. Stewart's always does a great
25 job. They can design the store to fit in the style

1 with the Town or Village they are building in and make
2 the shop very pleasingly aesthetically looking. Thank you
3 for your consideration.

4 I would like to add that I have heard some
5 people say negative things about Stewart's. I will say
6 that I retired from Stewart's. They are an amazing
7 company to work for. They take good care of their
8 employees. They pay them well. You get amazing
9 benefits. Nowadays, companies are doing that anymore.
10 Nowadays you have a 401(k). Stewart's has a fully
11 funded retirement plan and doesn't cost us a penny. If
12 you look at that, maybe that's why they want to expand
13 to get more business to keep taking care of their
14 employees. Thank you.

15 CHAIRMAN MCCORMICK: Thank you.

16 MS. WALTERS-DINEEN: My name is Judy
17 Walters-Dineen and I would like to read a letter from
18 someone who sent a letter to my house knowing that it
19 was a little late to do so. I said that I would bring it
20 to the meeting and read it for her because she could not
21 be here.

22 CHAIRMAN MCCORMICK: Who is the letter from?

23 MS. WALTERS-DINEEN: It is from Catherine
24 Ferry. She lives across the street.

25 I'm writing in favor of the Stewart's

1 expansion to support changes to improve their current
2 store on their own property. There are a couple things
3 that I find shocking about this topic of conversation
4 and I would like to address them here.

5 One: I understand that everyone is entitled
6 to his or her opinion, but what I disagree with is
7 people that are pushing their agendas on others. If
8 you are against the expansion, that's fine. You're
9 entitled to feel that way. Please don't tell me that I
10 need to feel the same way because I don't.

11 Anyway, anyone who's been between Altamont
12 and Saratoga has passed another Stewart's along the
13 way and all the shops that I have seen are updated and
14 look significantly better than the one that we
15 currently have in our Village. They are all slightly
16 different and fit within the surrounding area. It
17 gives me confidence that Stewart's will maintain the
18 integrity of Altamont when they are building.

19 Our Village is on the verge of becoming more
20 run-down than historic area. We are in need of some
21 improvements and I think it's an excellent place to
22 start. We have a company that is willing to invest in
23 their store.

24 I think we should let them. I'm sorry that I
25 can't be at that meeting in person, but I have an

1 expansion to support changes to improve their current
2 store on their own property. There are a couple things
3 that I find shocking about this topic of conversation
4 and I would like to address them here.

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6 to his or her opinion, but what I disagree with is
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19 was a little late to do so. I said that I would bring it
20 to the meeting and read it for her because she could not
21 be here.

22 CHAIRMAN MCCORMICK: Who is the letter from?

23 MS. WALTERS-DINEEN: It is from Catherine
24 Ferry. She lives across the street.

25 I'm writing in favor of the Stewart's

1 18-month-old - - and now she has a brand-new baby.
2 They require my time and attention. However, in the
3 not so distant future they will be requiring many milk
4 runs, ice cream runs, forgotten item runs and I hope
5 that the improved Stewart's - that we can all safely
6 ride our bikes to.

7 This is me talking. What I would like to say
8 is people work so hard to stop a business from growing
9 and serving their residents as well as Stewart's does.
10 This Board needs to decide the variances. That is up
11 to them. Stewart's has requested them. We can't keep
12 rehashing the same issues. These items don't seem to
13 change, but they just keep getting presented in a
14 different way. In my opinion, they are trying so hard
15 to do this. These other people are willing to do
16 anything to stop this project and I just hate to see
17 it. This is a wonderful Village. We shouldn't be this
18 split. We should really work together on it.

19 It is across from commercial and I understand
20 that there is a house next-door and that careless
21 next-door but this is not something - - this will
22 benefit the whole community. I feel that it should be
23 looked at that way, as a bigger picture. Thank you.

24 CHAIRMAN MCCORMICK: Thank you.

25 MR. SCILIPOTI: May name is Paul Scilipoti and

1 I live at 624 Pleasant Valley Road in Knox. Even though
2 I am from the hill, we have three generations of my
3 family that have lived in Altamont. So, I'm very fond of
4 the town.

5 When I looked at the lighting diagram it
6 looked predictable and acceptable. However, we don't
7 know what this place is going to look like until it's
8 up and done. I think that's going to be a shock to a
9 lot of us.

10 Regarding the issue of the trailer at the
11 pump, I have never had that problem. I get my gas
12 there all the time. I've never been inconvenienced by
13 a trailer being parked at the pump.

14 Regarding the 20% extra parking that would be
15 down the street, I don't see how people, especially if
16 they are in a hurry, park down there when it gets too
17 crowded or something. For somebody to park their car
18 and walk up there, I just don't see how that serves to
19 assist with the parking.

20 The comment that was given that the ZBA
21 should somehow follow the Village Board's
22 determination to me sounds like there is an indication
23 that somehow the Village Board has approved these
24 variances. I don't think that was in their purview to
25 do that.

1 I think we can all agree that our homes
2 represent a place of comfort and refuge. Try to
3 imagine how devastating this proposed Stewart's
4 expansion must be to Carol and her neighbors. They are
5 counting on us to help them.

6 I have asked myself over and over again. Why
7 is this happening today? It's not like the shoppers
8 got together to lobby Stewart's to address the
9 congestion at rush hour, which to me a lot of this
10 stems from. There is congestion everywhere at rush
11 hour. I don't think that was a legitimate reason to
12 expand. Rather, this proposal is all about markets,
13 shares and profits. Stewart's wants more and more. If
14 you resist them, you will find yourself in court like
15 our neighbors in Voorheesville.

16 The Village Board has a Comprehensive Plan
17 guideline and an application process. For reasons
18 unknown to me, four out of five chose to disregard
19 many of the impacts that this expansion may have on
20 the Village. I understand that not everybody is
21 sensitive to the unique historical charm of Altamont.
22 The majority of us are. There are residents who may be
23 indifferent now, but with the shock this has made this
24 is actually a colossus after it's built, if it is
25 built. We have guidelines for you to follow. We have

1 prescribed setbacks agreed upon by the residents of
2 Altamont several years ago. Those buffers are very
3 important for the safety as well as the staff. It's
4 really important that we get this right.

5 Please say no to the variance requests. I
6 think all of you for your service to the Village. I
7 know it's not an easy job. Thank you for your time.

8 CHAIRMAN MCCORMICK: Thank you.

9 MS. ROTHENBERG: My name is Carol Rothenberg
10 and I live at 111 Helderberg Avenue. My name has come up
11 several times. I wanted to thank the Board for the
12 opportunity to speak about Stewart's and about the
13 project and what I consider being rather dramatic
14 variances they are being asked for. I would like to
15 speak to just those three. I know I submitted material
16 earlier and in the past. Thank you for considering that.

17 As you and we are all aware, these three
18 variances requested by Stewart's are simply
19 tremendous. The front yard setback from the 10 feet
20 required to add 94 feet is a 920% variance request. It
21 ends up being a lot of asphalt. It is also a large
22 amount of asphalt that could be subjected to water
23 run-off of gas, oil and salt for winter snows which we
24 still have.

25 The parking gain will be one to two spots in

1 the parking lot. It's only near capacity at a few
2 selective times of the day even when I passed by at 5
3 o'clock you would think they would be more people. At
4 6:30 it fills up a bit more. I came down tonight and
5 there were eight cars. There may have been some in the
6 back. I am not sure. I know that the trailers do park
7 back there. Some of the larger trucks are there at
8 lunch time.

9 Has anyone asked about the number of
10 customers per day and in what time periods? That might
11 be something that would be helpful for determining
12 parking in the hours of business. I daily pass the
13 store and often the lot does appear to be
14 three-quarters empty. We are left with a lot of unused
15 asphalt.

16 Secondly, as a gas station, the lot must be
17 400,000 square feet and this is the combined two
18 properties which is basically 6,000 square feet. That
19 is 6,000 square feet shy of what the requirement is.
20 So, that requires another variance of 15%.

21 Lastly, the third variance affects my
22 neighborhood, my property and of course me personally.
23 That's the 60% variance request.

24 So, the gasoline/gas station designation
25 requires the 50 foot setback. The proposed building

1 will be placed 20 feet from my property line. With the
2 HVAC pads, that brings the back to 15 feet from the
3 property line. Just take a moment to envision what
4 that means. There is the noise of the running of the
5 refrigerator units and the mass of the building. That
6 part is obvious. Then, there's the white vinyl fence
7 and trees planted with only what might be a 15-foot
8 space which is very tight. I do appreciate Chuck
9 tonight talking about and clarifying some of the plan
10 and about that footage area there. I understand and I
11 appreciate the fact that the dumpster might be located
12 in a different spot. I also appreciate what he was
13 saying about the cement wall being two feet taller
14 with the fence being placed above that. It's still
15 very close.

16 Truthfully, I can imagine that almost
17 everyone in this room and the Trustees and the Board
18 Members are saying to yourselves I am glad that's not
19 my house.

20 Think now about the changes to our Village
21 and the main focal points that make our town charming
22 and unique and desirable. Many are thinking about the
23 current issue of the solar project and the Save the
24 View campaign. This is so worthwhile and it certainly
25 generated an awful lot of support. What about our view

1 and our neighborhood, my view and the view from the
2 funeral home porch? Might we also be concerned about
3 the view of how Altamont will look with the building
4 large and scale, more asphalt and mature trees
5 removed?

6 The hardships are self-created due to the
7 planning resulting in significantly large variances
8 that are needed. Why should the Village be the
9 recipients of an oversize building changing the look
10 and the scope of Altamont and monetarily devalue
11 waiting our land? What is the benefit to the Village
12 residents?

13 I thank you for your considerations for this.
14 I know there's been a line drawn down the center. I
15 hope that we can achieve acceptable conclusions for
16 the neighborhood.

17 CHAIRMAN MCCORMICK: Thank you.

18 MR. MCNEANY: Michael McNeany, 104 Seaverson
19 Avenue.

20 First of all, thank you Stewart's for
21 considering all of the changes that we requested along
22 the way. We can definitely use a new Stewart's. This
23 is old. A lot of the Stewart's in the area have been
24 updated and nice. I think we need a new Stewart's. I
25 just don't think we need one the size of the one on

1 the corner of 146 and Route 20. The Stewart's that you
2 are proposing is about that size. It's a little bit
3 smaller. It would seem out of scale with everything in
4 the Village.

5 This sort of occurred to me during the
6 presentation. The ingress and egress. We are going to
7 be taking away one of those entirely and were going to
8 have one of the significant ingress/egress that
9 Stewart's is claiming into their parking lot.
10 Effectively, it's really the width of Helderberg
11 Avenue. All of the congestion is still going to be
12 there, plus we're not going to have one of the
13 entrances that we used to have. Unless you're
14 considering Helderberg Avenue to be of the same
15 caliber of a road as 146, I don't think that 30 foot
16 entrance is really relevant - - effectively, it's not
17 relevant. That's just one of the things that shows
18 that the building that they are proposing - the scale
19 of the project doesn't fit in that spot.

20 We need a new Stewart's, we just don't need
21 it at this scale. Thank you.

22 CHAIRMAN MCCORMICK: Thank you.

23 MR. BURKE: Martin Burke. I have two points to
24 make. The concern points four and five and the
25 five-point area variance that the Board is to consider.

1 In the Stewart's November 25, 2019 seeking variances,
2 they answer questions four and five and that construct
3 is exactly the same for all three of the variances. So,
4 my comments concern points four and five for the three
5 variances. For 4 they answer for all three of their
6 variances - that point is whether the proposed variance
7 will have an adverse effect or impact on physical or
8 environmental conditions. Stewart's answer to that was
9 the overall redevelopment of this location is going to
10 be a site that improves visual circulation and is more
11 suitable this area. If the Stewart's building will be
12 more suitable to the environment as they are say, then
13 why does the store need three variances from the Village
14 to achieve this? Stewart's plan is more suitable for
15 Stewart's environment and that the Villages' existing
16 environment.

17 Our Village has already codified what it
18 believes is suitable or purposeful for us as the
19 Village. It is codified in Section 355 - 11 entitled
20 permits. Subparagraphs C defines what a purpose for
21 the Central Business District is. It is two sentences.
22 The purpose of the Central Business District is to
23 promote the uniqueness, preservation, restoration and
24 economic use of the existing buildings and other
25 historic structures in the center of the Village and

1 to ensure that any infill or extension of the road
2 center is done in the same pattern maintaining a
3 pleasant and safe pedestrian environment, preserving
4 structures of historical and architectural
5 significance harmoniously integrating residential and
6 nonresidential uses while minimizing vehicular traffic
7 congestion.

8 The historic structures in downtown are vital
9 to the site and scale and character of the Village and
10 provide for any future development in and around this
11 district.

12 I believe that section of the Code is really
13 the backbone of the undercurrent which should inform
14 this Board with respect to these two variances.

15 Stewart's three area variances involving a
16 demolition of a 100-year-old Severson building does
17 not promote the maintenance, preservation, restoration
18 or economic use of existing buildings. It does not
19 ensure that the infill or extension of the Village
20 center is done in the same pattern of existing
21 structures. That's point 4.

22 With respect to.5, that's whether the alleged
23 difficulty is self-created, the variance was
24 self-created. Where Stewart's is seeking to ensure the
25 longevity of ownership and a business in the

1 community, to do so Stewart's must redevelop from the
2 ground up as it was originally constructed in 1980. It
3 must mean the building - and suffers from physical and
4 functional obsolescence.

5 Stewart's assertion that it must redevelop to
6 ensure the longevity of ownership and business it is
7 doing, is a statement that it's hard to take
8 seriously. Stewart's shop is a chainstore with 330
9 locations with a revenue of upwards of \$1.5 billion.
10 Nearly every municipality in the capital region has
11 more and more Stewart's shops.

12 In the fall of 2019 Stewart's announced that
13 it's undergoing a \$70 million expansion of its stores.
14 It is clear that the longevity of the Stewart's
15 business in the local capital region community is
16 secured. Stewart's does not need the Village of
17 Altamont's Zoning Board to look out for its longevity
18 of its Corporation. The role of the Village of
19 Altamont's Zoning Board is to properly look out for
20 the longevity of the Village. That is codified in
21 that Section 355.11, Subdivision C.

22 Ms. Everhart has indicated that the
23 difficulty is not self-created because the world has
24 changed around us. So, Stewart's is just catching up
25 to the world around it. If the world changes around

1 Stewart's - if the zoning is different now than it was
2 back in 1980 - - this project involves a complete tear
3 down with the new building that is entirely new
4 structure, why can't Stewart's new structure move into
5 compliance with the current zoning rather than
6 continuing these grandfathered provisions that they
7 have been operating under the last four years? Thank
8 you.

9 CHAIRMAN MCCORMICK: Thank you.

10 MS. WILSON: Hi, I am Kirby Wilson. I'm at 272
11 Granville Road.

12 I agree with most of the previous speakers
13 who are asking you to enforce our Zoning Codes that
14 were created as a result of our community
15 Comprehensive Plan that so many people worked on. I
16 wanted to let you know that I did write some details
17 that you have on record. I wanted to make some
18 additional points.

19 First, I wanted to emphasize that these
20 variance requests are huge. I know you're normally
21 looking at somebody who wants to build a garage close
22 to somebody else's property and they want one foot or
23 10 feet, but we're looking at huge variances.

24 I agree strongly with what Martin just said.
25 I think our Zoning Board's responsibility is to the

1 community.

2 I think people are wrong in thinking that so
3 many people are against Stewart's. We are not. They
4 are part of our community. I enjoy their products. I
5 enjoy their services and their charitable activities.
6 I just don't want them to tear down a two-family home
7 in the Helderberg/Severson neighborhood and dozens of
8 small trees that shield the residential neighborhood.
9 My ancestors built homes and lived there for many
10 generations. I don't like the idea of driving a main
11 street and seeing a hugely increased pavement area and
12 the heart of the Village near our renovated train
13 station and our park that so many people have worked
14 on over the years to renovate and maintain and also
15 invested a lot of their hard money and time and
16 efforts into those renovations to maintain the
17 character of our Village.

18 I hope that you will enforce the Zoning Code.

19 I wanted to add one other comment regarding
20 the fact that in the SEQRA review that the Village
21 Board did, they did find that three of the 11 points
22 that they had to discuss as far as the impact on the
23 environment - they did find a moderate impact on three
24 of those 11. They were able to write a defense of the
25 overall negative determination, in spite of three

1 moderate impacts on our environment. I hope you will
2 consider that, as well. Thank you.

3 CHAIRMAN MCCORMICK: Thank you.

4 MR. NEWMAN: I am Ted Newman. I don't want to
5 say much more than the fact that I recall from a
6 Planning Board the same issue. That is that the approval
7 of dramatic variations like this that Stewart's is
8 asking for doesn't just apply to Stewart's. It may apply
9 to something in the future that might be even more
10 detrimental to the Village and we're not going to be
11 able to defend that at all because of course whoever
12 applies for those variances is going to say look at
13 these dramatic variances that were approved for
14 Stewart's.

15 I ask the Board to consider the fact that
16 it's not just what's before you today, but it's what
17 could come before you in the future that you will have
18 no defense for. Thank you.

19 CHAIRMAN MCCORMICK: Thank you.

20 MR. MCNEANY: Michael McNeany, again.

21 There was something that I wrote down that I
22 wanted to say. Are you familiar with Stewart's new
23 slogan: we are closer to you? It has a very different
24 feel and taken into the context of everything that's
25 going on around here, I wanted you to think about

1 that.

2 I want you to think about getting closer to
3 our residents by encroaching into our neighborhoods.
4 Every time you hear that slogan, think about that.
5 Thank you.

6 CHAIRMAN MCCORMICK: Thank you.

7 MS. STELMASZYK: My name is Laura Stelmaszyk
8 and I live at 160 Maple. I didn't have any written
9 comments, but I'm just thinking about things that I have
10 heard tonight.

11 One point that I would like to make is
12 Stewart's and Mr. Marshall and Stewart's attorney
13 tonight raise the point as well that Stewart's is in
14 fact a known entity. I would like us to keep that in
15 mind. This is not something that is -- benefit of
16 having someplace to go if you so choose to purchase
17 milk as opposed to the Village where other stores are
18 quite far away except that we do have some other nice
19 stores in the Village that make this a working
20 Village.

21 Stewart's is a known entity. They are not
22 known for their design sensibility. If you look at
23 their corporate branding, it is quite old and
24 outdated. My point being that this permeates their
25 corporate structure and their sort of lack of design

1 sensibility which is why they are even coming to the
2 Zoning Board asked for these variances because good
3 design can solve a lot of problems. If they so chose,
4 they can solve a lot of these problems within openness
5 to a better design. They are choosing not to. It is
6 their choice. They do not want to close their business
7 at this location temporarily. They are choosing to do
8 this.

9 There are some people who have spoken say
10 this is going to create this huge area of asphalt.
11 It's not going to be conducive to Village life and the
12 scale of Altamont that exists. I would ask that you
13 reject their application for variances.

14 An addition to their refusal to maybe update
15 their design - - the point about having the world
16 having changed around them. These Codes and these
17 upgrades to the Codes are for a reason. It's for the
18 health and safety of the community. Why not make
19 Stewart's which does have the resources, adhere to
20 these Codes and perhaps this upgraded design
21 sensibility and design not for decoration necessarily
22 before the good that it does for the good of the
23 community. Stewart's is a known entity and you can
24 look around at their existing Stewart's and they are
25 just seas of asphalt. They talk about improving the

1 circulation pattern, but I know from going and getting
2 gas at Stewarts etcetera, I don't feel safe in the
3 seas of asphalt that the store on Route 20. It's not
4 like you have clear patterns. You have cars sort of
5 zigzagging across these large spaces and it does not
6 make anybody safer. I'm sorry, just doesn't. We have
7 all experienced that. So, it's not like we have to
8 sort of imagine. We can see in Stewart's existing
9 locations - - I don't think it would be an
10 improvement. I don't think it's worth granting. They
11 are very large and impactful requests to this plan.

12 For the good that they do in terms of being
13 there, again, as a store is they sell junk food and
14 they sell things that are not necessarily good for
15 you.

16 CHAIRMAN MCCORMICK: Thank you.

17 MR. VLAHOS: I have just two things. They say
18 that the world has changed around them. That's true but
19 it's also the most profitable stores. If you take a look
20 at all the contests they have one and things like that -
21 - is not impacting their ability to make a profit.

22 The other one is the issue of open spaces.
23 It's a recognized principle that traffic calming makes
24 it safer. We've asked on numerous occasions to show us
25 any traffic accidents reports regarding

1 pedestrian/vehicle accidents and there haven't been
2 any. That's one of the reasons that when things are
3 closer and tighter, according to the Institute of
4 Traffic Engineers and the US Department of
5 Yransportation, people slow down. Think about it, when
6 you see construction and all the signs and see the
7 cones, you go a lot slower. That's what's going to
8 happen. That's why there's no accidents here. It's
9 very tight.

10 We're talking about nine feet. You realize
11 that you've got to be careful. So, you slow down.
12 That's what makes it safer. People at the Route 20
13 store just kind of going all different directions.

14 CHAIRMAN MCCORMICK: Thank you.

15 MS. CASEY: Kristen Casey, 215 Main Street. I
16 had a couple of questions.

17 I've never been opposed to Stewart's. This
18 has never been about whether you like Stewart's or
19 don't. It's really about the magnitude of the project.
20 It's really about the location. The size of this
21 project doesn't belong there. That's what it's always
22 been about.

23 I know that lighting came up. When he showed
24 this, I wonder if there is a duplicate from what it
25 looks like now so that we could compare what it will

1 look like to what it looks like now. I know for
2 example that the lighting in the Village - they say
3 will be 4,000 Kelvin units or whatever that is. It is
4 very low light and he can go down to 2,000. I know
5 that the Village is reviewing a lighting plan to try
6 to keep the lighting in the same field as what we have
7 right now. I don't know if 4,000 is much greater than
8 what the development is right now.

9 Do you know Chuck?

10 MR. MARSHALL: It doesn't matter.

11 MS. CASEY: What do you mean it doesn't matter?

12 MR. MARSHALL: I'm not going to get into the
13 back and forth about lighting.

14 MS. CASEY: Well, do you know what the
15 difference is because one of the big concerns about the
16 site and location and the magnitude is the increase in
17 the number of lights. There is considerably more lights.
18 If they are low enough, will it still have a community
19 feel? If there is a lot higher, it's going to be
20 glowing. That is an important consideration.

21 In terms of size, again, I don't know this
22 has to do with the variance, but is the canopy a lot
23 larger? The scale of the building is a lot larger. I
24 don't know what percentage larger it is in the
25 building that is there. If it's just a little bit

1 smaller than the one out on Route 20, that's big. That
2 is out of scale for being in our neighborhood and in
3 our downtown. So, that's the real issue.

4 The only other thing that I want to say is I
5 just find that the magnitude of the zoning exceptions
6 is so great that if they are approved, they go so far
7 against our established planning and zoning laws that
8 I wonder why we even have any.

9 CHAIRMAN MCCORMICK: Thank you.

10 MR. ROSENBERG: Julian Rosenberg and I live
11 just outside the Village. I wasn't planning to speak. I
12 didn't prepare anything, but there's a new story posted
13 in Stewart's website from September 2019. It's about a
14 New Brunswick store that opened. It was a great PR
15 campaign for Stewart's. I would just read a little bit
16 of it. You can kind of bring the rest.

17 The new shop isn't your typical Stewart's
18 Shop. With unique features, this shop embodies some of
19 the architectural elements of the once historical
20 house that stood in its place. The exterior of the
21 shop is yellow in honor of the yellow house. It is
22 topped with an original weathervane taken from a
23 nearby barn. Inside the shop, a dedication sign is
24 hung in recognition of the historical house and the
25 tells the story of the history of this small town.

1 Stewart's uses the PR campaign in a positive
2 light. Stewart's is capable of doing these types of
3 things as to what a Village asks of it. I just wanted
4 to put that into the record.

5 CHAIRMAN MCCORMICK: Thank you.

6 Is anybody else would like to come forward
7 with any comments?

8 MR. SINCE: I'm John Since and I live at 18
9 Grand Street in the Village of Altamont.

10 I would just like to say that would've said
11 before and some of the same thoughts as I really think
12 that no one's really against Stewart's. They say they
13 are a great corporate citizen. I believe that they
14 are. I think had they been listening - the design team
15 - I think they want everybody in the Village - I think
16 they indicated without being point-blank about it
17 maybe if you change the design of the building a
18 little bit and you consider repurposing the existing
19 building that you want to tear down and make it a
20 little more visually compatible with the Village
21 itself, I think a lot of this stuff could be avoided.

22 I think most people would say they need these
23 setbacks, they need this or they need that, let's do
24 it because they are really going out of their way to
25 design it so that it's included better.

1 The property of Jeff Thomas across the street
2 - to my knowledge, Stewart's owned that property at
3 one time. Jeff did a great job on it. I think
4 Stewart's could probably do something similar.

5 People come to Stewart's not so much because
6 of the design of the building. I think people are
7 drawn to Stewart's by its signage and the products
8 that it has available. I think that's what draws them
9 there.

10 There's a different one in Brunswick and
11 Saratoga and in Manchester. Nobody wants to say no to
12 Stewart's. We just want Stewart's to sort of rethink
13 it. I think if you came back with something that has a
14 little tweak here and a little tweak their - I think
15 maybe if you just throw it out and start over and
16 figure how we can make it work, I would try to
17 repurpose the building that you have and somehow fit
18 it in within the store and I think the town would be
19 much more amenable to the sort of thing. I think you
20 could redesign the building a little bit more and
21 maybe made it look a little bit like the old Severson
22 Tavern that used to be there and the stagecoach stop
23 that was torn down by a corporation the 50's. Those
24 kinds of things would not only set a great example for
25 Stewart's of community cooperation, but it would

1 really set the tone for them going forward with a lot
2 of things.

3 Sometimes you feel like you're being bullied
4 into doing this. I think that Stewart's is really just
5 better than that. I know this has been a long process.
6 Sometimes good things just take time. I would suggest
7 they go back to the boards again and see what they can
8 do to bring it to a consensus to do something a little
9 bit better. It's really about the plan and it's not
10 about people being against Stewart's. Thank you.

11 CHAIRMAN MCCORMICK: Thank you. Anyone else?

12 (There was no response.)

13 Thank you for all those comments.

14 Chuck, would you mind if we took a break
15 renown for a minute?

16 MR. MARSHALL: Sounds great.

17 CHAIRMAN MCCORMICK: Folks, if you want to
18 stretch her legs or leave and come back in a few
19 minutes.

20 (Whereas there was a break in the
21 proceedings.)

22 MR. MARSHALL: I'm still Chuck Marshall.

23 I wanted to go through a couple of things.

24 Obviously in the introduction, there is so
25 much information that sometimes there's not a good way

1 to effectively introduce all of the elements. Just
2 trying to touch on what we did the last time.

3 So, I wanted to touch on some of the elements
4 that were discussed. Some of them pertain to the
5 variances that we are seeking and some of them are
6 kind of a larger issue. One of the largest issues is
7 probably - - this isn't germane because the Village
8 Board has already rezoned the house. Multi-family
9 housing is not a permitted use in the CBD. So, to make
10 that compliant would require some type of alteration.
11 Any alteration of the non-compliant use requires the
12 use variance, which this Board would have to evaluate.

13 In your evaluation of what could be done with
14 the house, I realize that it is a non-conforming
15 structure. Stewart's has long held that it is
16 unfortunate but we are not tied to the house. The
17 house is not historic. We all kind of evaluate those
18 things from a Stewart's perspective or SHPPO's
19 perspective. I do believe that SHPPO was circulated as
20 an involved agency for the Village Board's
21 determination.

22 Certainly, we all appreciate the work of Nan
23 Stoltzenberg as an independent consultant to the
24 Village. I would like to offer her September 2, 2019
25 letter to the Village Board.

1 So, on page 5, number 10 she said the
2 existing structure is not listed or determined to be
3 eligible.

4 On page 10, B, she said the new building is
5 more consistent with the desired elements of the built
6 environment.

7 She did say on page 9, number six, that
8 shifting the building north does potentially increase
9 the likelihood of introducing noise or lighting
10 elements to the property behind the Stewart's which
11 again we have used or attempted to use the mass of the
12 building to block that element.

13 People went on to to speak about the
14 Comprehensive Plan and its relation to the scale of
15 the project. It's important to note that we are
16 compliant and building height. We are compliant with
17 impervious pavement. We are compliant with the
18 landscaped area.

19 In addition to the scale, as far as those
20 elements are concerned, we are seeking a variance from
21 the minimum lot size.

22 People have spoken about the size or scale of
23 the building. One of the things is that you could
24 potentially increase the size of the building to
25 decrease the variance, if you made it longer going

1 towards Helderberg Avenue. What we did is we used a
2 smaller building at the request of the initial
3 comments received from the Planning Board that the
4 building that we originally proposed was too large.
5 So, we have come down in the size of the project in an
6 effort to be sensitive to the requests of the
7 neighborhood.

8 Additionally, when we originally applied for
9 the variances in March which generated the
10 interpretation, we were seeking relief for a sign
11 which we brought into compliance. It was both the
12 number of signs and the setback of the sign. So,
13 through the process we have decreased the size of the
14 building, decreased the amount of relief and the
15 number of variances we requested. Although some of the
16 variances have increased - for instance the CBD for a
17 gas filling station to a residential - part of that
18 has to do again with the change from a building in the
19 CBD to a specific use within the CBD with the
20 dimensional requirements thereof.

21 One of the things that was emphasized a lot
22 was: What was the benefit? I think it's important that
23 we discuss what is really there today. Again, you have
24 107 feet of unrestricted driveway from pedestrian
25 accommodations. The store is on an island and has no

1 sidewalk connectivity. We are proposing building a
2 store that is adjacent to the Helderberg Avenue
3 sidewalk and decreasing the overall number of driveway
4 or driveway length by 44% to 60 feet. The increase in
5 the building is only 24%. So, you have roughly a 2,700
6 square foot building and it will increase to 3,340
7 square feet. If you think about the 40 years that the
8 building is been around, that seems somewhat modest.

9 If you look at the buildings that are
10 surrounding, again, you have similar to the proposed
11 Stewarts, Altamont Corners is near the side here but
12 has roughly 99 feet from the back of sidewalk to the
13 front of the building on the short side (Indicaitng).
14 The pizza place is relatively compliant. It's a pro
15 panel building that does not fit with the character.

16 Someone mentioned the SEFCU. The road side of
17 the building is 155 feet from the edge of pavement to
18 the bank. On the main street side it's 46 feet from
19 the edge of sidewalk to the front of the bank. So,
20 while it is adjacent to the sidewalk, it's not within
21 your Code because it's not near a municipality. That's
22 valuable because when you evaluate the 146 and 20,
23 that building is compliant with Guilderland's Code
24 because it is in Guilderland.

25 Your Comprehensive Plan and subsequent zoning

1 that stems from it, of all the things that it deals
2 with, lighting - we are compliant; scale, as far as
3 building - we are compliant; impervious pavement - we
4 are compliant; landscaping area - we are compliant.

5 What we are saying is that we can rebuild the
6 shop without two variances that have to do with
7 physical dimensionality of the shops location; one:
8 the setback from Altamont Corners to the front of the
9 store. Two: the setback from 111 Helderberg Avenue to
10 the rear of the store. We use this layout for series
11 of reasons that I will walk you through.

12 Your Zoning Code has maximum setbacks and not
13 minimums. So, it is required to be as close to the
14 street as possible. So, that eliminates a building
15 being built back here (Indicating). As you can see,
16 this would mimic the current configuration. It's not
17 facing a street which I think your Zoning Code or at
18 least your Comprehensive Plan dictates that the main
19 front face the street. So, you have to have a building
20 that's oriented toward Altamont Boulevard, or a
21 building that is oriented toward Helderberg Avenue. If
22 you take a building and place that effectively here
23 (Indicating), you are pushing the driveway location to
24 the proximity of the intersection with Altamont
25 Boulevard and this is actually not Stewart's owned

1 land. That land is owned by DOT. So, the orientation
2 of a building in this proximity was not valid.

3 If you take a building and flip it, and put
4 it here, you have the back of the building that faces
5 the intersection which again is not compliant with
6 either your Comprehensive Plan nor your Zoning Code.
7 In addition to which, you place the gas canopy between
8 the building and the abutting non-similar zoning. So,
9 you would take this image, flip it where the lights
10 surrounding the store would then all be open to 111
11 Helderberg Avenue. It is for that reason that we
12 propose the method that we did here where the building
13 is moved to Helderberg Avenue and compliant with the
14 maximum setback from that side and then the mass of
15 the building is used to block all the commercial
16 activity to the front. It's that simple.

17 The fact that the store can remain open is
18 not even a thought because even if we today had the
19 same configuration, we would come in with the same
20 plan. That's the best way to design the site. You keep
21 the commercial activity between the building and the
22 street and you keep the rest of the activity behind
23 the store using the store as a mass.

24 If you want to talk about what we have done
25 in other places, this is just the start of what we can

1 do as far as the building goes. Upon receiving his
2 variances, we still have to go back to the Planning
3 Board. So, if you want architecture that mimics
4 Altamont Corners, we have introduced porches; we have
5 introduced the cupola; we've done a second-story
6 appearance with dormers. We are willing to work on
7 those types of things, but the reality is that this is
8 the best configuration for the site.

9 I will answer any questions the Board has,
10 but that's it in a nutshell.

11 MS. PHILLIPS: I think it's important for us to
12 remember that those details of the project are going to
13 be looked at by the Planning Board as part of the site
14 plan review. Right now, we are considering the variance
15 requests and we are considering what he has just
16 explained such as the orientation of the building, how
17 it relates to the setbacks - specific things like the
18 design elements of the building. We know what they are
19 proposing right now, but were getting a little beyond
20 our jurisdiction to start talking about specific - what
21 the porch should look like, what the cupola should look
22 like. We need to stay focused on the variance requests
23 and our Code.

24 MR. MARSHALL: Leah just raised a good point
25 and I think it's important. And the gasoline filling

1 section, your Code indicates that the pumps should be I
2 believe it's a minimum of 35 or 20 feet. I think it's
3 Section 211, or close to that. So, these pumps are
4 compliant. Were not seeking any relief from the pumps.
5 The Code is mute on whether you make the pumps comply
6 and then the building or vice a versa. So, in an effort
7 to keep the activity isolated to the front of the store,
8 we made the pumps compliant and then set the building or
9 used the pumps as an offset of the building. In all of
10 our stores the two registers are required to face the
11 pumps. What that does is controls the sale of gasoline
12 and in the event of an emergency, it allows the partner
13 to activate the protocol.

14 MS. EVERHART: So, in other words the building
15 would have to face the pumps in order to have that
16 safety protocol in place, which is why when Chuck
17 mentioned that if we were to put the structure close to
18 the road, it would be the back side of the structure.
19 Because if the pumps are in the back of the store, we
20 don't have that safety protocol and it also increases
21 the likelihood of a drive-off which isn't great. That's
22 why Chuck is saying that if the store were closer to the
23 road and the pumps were there on the residential side of
24 the site, the structure would have to be turned around
25 where the back of the structure would be facing the road

1 in the front of it would be facing the pumps, which is
2 not Code compliant and I don't think anyone likes that.
3 Even if it was Code compliant, I don't think that's a
4 very aesthetically pleasing look.

5 CHAIRMAN MCCORMICK: I don't know how much I
6 want to get into it at this hour of the night. I
7 understand that's what you need for what you are
8 proposing. I guess what a lot of people are thinking
9 about and concerned about is will a store like that be
10 the focal point of the center of the Village, thereby
11 changing the look.

12 MR. MARSHALL: One of the things is that as you
13 evaluate how it will change the neighborhood is one of
14 the balancing test questions. I think the answer to that
15 is no. The reason is that it's been there for 40 years.

16 The Village Board at the SEQRA determination
17 contemplated what change that use will have on that
18 parcel. So, when the parcel becomes CBD, the use
19 becomes eligible and then the dimensional requirements
20 thereof. It only changes the small section of land
21 that is currently not used as a convenience store with
22 gas or gasoline filling.

23 The other side of it is the current store is
24 used on all sides. The store is only used effectively
25 or essentially on to; the commercial activity and

1 vehicle circulation is capped to the front of the
2 store and as your code indicates, deliveries and
3 garbage is to the rear.

4 The other two sides of the store - there is
5 the mechanical unit that's here which your Code
6 indicates that we mitigated with the retaining wall.
7 That's where your Code directs these elements be
8 placed. The biggest one to me as the dumpster. If the
9 Planning Board decides to issue a waiver and relocate
10 the dumpster from the recommended location in the
11 Code, that is a separate element from this relief.

12 MS. EVERHART: The other thing we wanted to
13 mention - we were talking about neighborhoods. This been
14 a lot of discussion in the words we used - - and
15 appropriately so.

16 The neighbors to the west are part of the
17 neighborhood. The neighborhood is larger than just
18 this area (Indicating). This is the neighborhood. Yes,
19 this area is used residentially. This is not. So, when
20 we are talking about changing the character of the
21 neighborhood, the character of the neighborhood is
22 commercial as well. The use is continuing on. The
23 appearance will change to comply more and to be more
24 in keeping not only with current trends of Stewart's,
25 but also the current trends of planning and zoning and

1 what the Village wants to see aesthetically. So, while
2 the appearance of the stores proposed to change the
3 use, the neighborhood is not.

4 CHAIRMAN MCCORMICK: Right, but the impact is
5 on the neighborhood.

6 MR. MARSHALL: That the impact on the
7 neighborhood was done when it was rezoned.

8 CHAIRMAN MCCORMICK: Yes and speaking of a
9 two-family home - yes, it couldn't be used as a
10 two-family home now that it's CBD. It can always be
11 changed back to a two-family home zoning.

12 MR. MARSHALL: You can evaluate it as that,
13 though.

14 CHAIRMAN MCCORMICK: Oh, I am not. You made the
15 statement that it's now CBD and you can't do anything
16 with it.

17 MR. MARSHALL: A could be through a rezoning.

18 MS. PHILLIPS: So, what we set on the outset is
19 that the Village Board had rezoned the property and
20 commercial uses permitted on the property, but you are
21 correct that we are looking at - as part of the factors
22 we have to consider that a variance request - what does
23 that impact on the character of the neighborhood or
24 detriment to the nearby properties? So, it is a relevant
25 consideration for us to consider. This commercial use on

1 a substandard lot, this commercial use being within the
2 required setback. Those are the specific considerations
3 we have to focus on, setting aside the fact that the use
4 itself - a commercial use is permitted on these lots
5 following the Village Board's rezoning.

6 MS. EVERHART: Right, and the only point I was
7 trying to make along that line is that your
8 consideration about neighborhoods is appropriate, but
9 looking at it only from the perspective of the west of
10 our property is very, very limited. We think that is too
11 limited for the Board to correctly evaluate impact on
12 the neighborhood because the neighborhood is this entire
13 area and not just the residential component of that one
14 street. We are right at the corner of a five road
15 intersection. Looking at only uses down one of those
16 roads is very very limiting and I think it ends up with
17 the result that isn't supported by the reality of the
18 situation.

19 CHAIRMAN MCCORMICK: I'm just going to bring up
20 the two-family again only because - - going to consider
21 the whole thing commercial. I understand that. I'm not
22 saying anything about the fact that it's rezoned. That's
23 fine. Whatever it is, it is. But you said it would be a
24 detriment to Stewart's or something like that where
25 maybe financially that would be harmful to you guys. The

1 fact is that if you never touched the two-family, you
2 can use that property and it couldn't be rezoned to
3 two-family and used again. That's what I was getting at.

4 MS. EVERHART: So, before the zoning change,
5 the use at that site in a residential zone is not
6 compliant. It wasn't the zoning change back to CBD that
7 rendered that way.

8 CHAIRMAN MCCORMICK: What is your feeling on
9 the impact to the house that's going to be right behind
10 the new Stewart's? Do you feel there is any impact?

11 MR. MARSHALL: I feel that while unfortunate
12 for Carol - I feel this in such a way that I made an
13 explicit point after submitting the documents to this
14 Board that I called Carolyn and sent her own set of
15 plans so that she was aware of what we were doing. I did
16 offer to sit down with her.

17 The reality is there's no other place in the
18 Village where we could relocate the store without
19 doing this. As I've said before, if I lived here, I
20 would want the building where it is and I would want
21 the dumpster moved and then I would want restrictions
22 on deliveries and pickups. That is what I think would
23 be the impact on that one individual house.

24 I do think that the long-term goal of the
25 Village is to redevelop and retain businesses

1 particularly in reference to your comprehensive plan
2 and I think that this ensures that.

3 MS. PROVENCHER: The one question I have and I
4 understand that by asking this is part of what we have
5 to look at is the minimum amount.

6 Part of what I look at on the plan is between
7 the gas pump, which I understand are at the
8 appropriate distance of setback in the road - Altamont
9 Boulevard there are parking spaces that don't need, in
10 terms of rezoning. So, I am curious about why not ask
11 for a variance to make the canopy near the fuel pumps
12 closer to Altamont Boulevard so that you need less
13 variance between the back of the store and the
14 neighboring property which also gives you room for
15 landscaping.

16 MR. MARSHALL: So, you are saying make the
17 promise not compliant?

18 MS. PROVENCHER: Uh huh. They are not now.

19 MR. MARSHALL: They are now. They are proposed
20 to be compliant.

21 MS. PROVENCHER: Not at the current -

22 MR. MARSHALL: But you're not evaluating the
23 current store.

24 MS. PROVENCHER: I understand that. Believe me,
25 I understand that.

1 MS. EVERHART: I think Chuck wanted
2 clarification. You are asking why not propose fuel pumps
3 that are closer to the road that will require an
4 additional variance to lessen the variance needed -

5 MR. MARSHALL: So, we would effectively be
6 seeking a variance to move the pumps closer and seeking
7 a subsequent variance to meet the parking?

8 MS. PROVENCHER: You wouldn't need a variance
9 for parking. You don't need a variance for parking.

10 MS. EVERHART: I think this relates back to the
11 discussion was had before the public comment. I think
12 there might have been miscommunication at that point
13 about the minimum number of parking spots needed. I
14 think the comments they were given about the number
15 suggested that the belief was that we have more than we
16 needed and the Zoning Code. I don't know for sure.

17 MR. MARSHALL: That would be a determination
18 from Lance.

19 MS. PROVENCHER: We believed that the ancillary
20 parking was a benefit as a result of needing additional
21 space. You can check with Lance.

22 MR. MARSHALL: I think if you do that you are
23 effectively creating the same situation that you have
24 today where you have a parking problem. The other
25 element is that the highway design manual standard - the

1 2W plus 15 fixes the terminus of that radius at that
2 point. So, this driveway has to stay where it is. So, if
3 you move this up, you have to move this up. What you
4 would be doing is the 30 feet that this driveway is -
5 the 30 foot mark on the side - you would be driving into
6 the store.

7 So, this driveway is 30 feet. It is
8 effectively fixed because of the minimum standard per
9 DOT. If you move these this way, you would then move
10 this this way (Indicaitng). This stays where it is so
11 as you move everything up, you end up with a parking
12 space rate in the driveway instead of the parking
13 being at the terminus of the driveway.

14 MS. EVERHART: We are available for any of the
15 questions. There were just a couple of other comments
16 that we just wanted to touch on very, very quickly.

17 We just want to point out that no variance is
18 being requested concerning the design of the structure
19 or scale because it is lawful. What's being proposed
20 is lawful.

21 This came up once or twice in comments but
22 this sort of dangerous precedent argument. I think
23 it's often misunderstood with a lot of Boards saying
24 if we grant this, we will have to grant every variance
25 that requests the same amount of relief. The reality

1 is that precedential value decisions only matters when
2 you have two applicants that are similar - not just in
3 what they are requesting, but all other aspects of
4 their application. And, you don't distinguish. We
5 treat them differently. You don't say why. That's the
6 only time precedent is an issue. All variance requests
7 are fact specific. Your reviews are always different.
8 Every application brings up different issues,
9 different reasoning, different variances. That's the
10 way it's always going to be. If ever you receive a
11 variance request that is significantly similar to
12 this, then you would be obligated to treat it the same
13 as you treat Stewart's unless you explain why and have
14 a rational basis for doing so. That's all it is with
15 precedent.

16 Does the Board have any other questions for
17 us?

18 CHAIRMAN MCCORMICK: I just want some
19 clarification about what you said on the house behind
20 it. I think you said what you would like to see, but I
21 don't think you really answered what the impact is, if
22 you feel there is any.

23 MR. MARSHALL: I think the impact on the house
24 was what was identified on the Village Board's SEORA
25 determination when they rezoned the property from R10 to

1 CBD. The property was previously not compliant. It's not
2 compliant today. I think that we have done what we can
3 to mitigate the impacts. I think that further mitigation
4 could be done if we move the dumpster and restricts
5 delivery and pick-up times for this area. I think using
6 the mass of the building is the most effective way to
7 ensure that commercial activity is not introduced into
8 the R10. That's why we propose this design in addition
9 to the New York State Department of Transportation
10 standards on highway design as to where location is.

11 CHAIRMAN MCCORMICK: Why this big of a store?

12 MR. MARSHALL: So, the overall store only
13 increases only 24%. Again, people seem to be comparing
14 it to the store on 146 and 20. While the size of the
15 store may be comparable, that is a three-acre lot that
16 has six gasoline islands with 12 filling positions which
17 is effectively three times the size of what we are
18 proposing here on a three-acre lot which is effectively
19 four times what the size of the lot in this municipality
20 is.

21 There are certain elements of the building
22 that affects asile width, handicap accessible
23 bathrooms, the introduction of a walk-in cooler and
24 then an expanded back room. Those elements along with
25 some counterspace configuration is one of the reasons

1 that the store is that big. Again, we came in with
2 approximately 3,800 square foot building to the
3 Planning Board and upon their direction, decrease the
4 overall size of the store to 3,340 square feet.
5 Anything further in reduction is basically putting the
6 store back to what it is today. It doesn't make sense
7 to rebuild the store with the same capacity and not
8 gain anything.

9 We did provide in this section here the
10 overall square footage of the store and how it's
11 proposed to be used. So, 1,675 square feet is customer
12 accessible space. Then, 1,500 is kind of back working
13 stuff. The cooler is here (Indicaitng). The green on
14 the site is basically the counter with coffee, food
15 and then here again would be employee access only.

16 MR. VLAHOS: I have a question.

17 CHAIRMAN MCCORMICK: Who do you have a question
18 for?

19 MR. VLAHOS: Both the applicant and the
20 attorney.

21 CHAIRMAN MCCORMICK: You know what, you will
22 have an opportunity to send in some comments.

23 MR. VLAHOS: I guess one thing I would ask is
24 what is the worst case scenario if you're not making
25 enough money?

1 MR. MARSHALL: In this instance, I will engage
2 Mr. Vlahos.

3 The store happens to be in the bottom
4 one-third of the company. So, while he is claiming
5 that were making so much money, the reality is that
6 taking up the efficiencies that we are having will
7 increase the longevity of the store as fixed costs
8 including increased minimum wage continue to rise.

9 Carmen, in my discussion with her today, had
10 indicated that she was down volume on her coffee sales
11 because the Fox Market up and Berne was able to expand
12 their diesel offering. So, the guys that she usually
13 had come in the morning for coffee were now getting
14 diesel and not making their way down the hill. So, the
15 overall sense of redevelopment and adding diesel as a
16 service and combining that with the inside coffee
17 sales is a factor.

18 MR. VLAHOS: If you're in the bottom third, you
19 still have a profit?

20 CHAIRMAN MCCORMICK: Alright Harvey, feel free
21 to submit something.

22 MR. WHALEN: The public hearing is still open.
23 He has the right to go to the microphone.

24 MS. PROVENCHER: Thank you for that, Dean; yes.

25 CHAIRMAN MCCORMICK: Do you want to go to the

1 microphone?

2 MR. VLAHOS: I do, but I will keep it short.

3 Just a couple of other things. I think there
4 should be a designated neighborhood district because
5 the neighborhood is really here in the Comprehensive
6 Plan says this is where the line is. There is sort of
7 an assumption that people can do this and they're
8 entitled to do this and they can do this and that's
9 not necessarily so.

10 Like I said, if you're the bottom third, they
11 would be closing stores that were not profitable. You
12 might have an impact on property values in the
13 neighborhood because they're going down. Carol is
14 going to lose 25% and so is the funeral home and to a
15 lesser degree, the further out you go. And comparing
16 it to some of these others - Altamont Commons - that's
17 kind of grandfathered in because there is one that
18 doesn't meet current Code, doesn't mean that you
19 should have others that don't meet current Code.

20 There's a couple things that we have some
21 issues with like the historic district should be
22 contiguous and noncontiguous. Nan said that and you
23 can quote that and I will send it to you. She was
24 saying that it should be considered a contiguous
25 historic district. So, there are a few of those things

1 that I think really need to bear some consideration.
2 Thank you.

3 MS. PROVENCHER: Thank you.

4 CHAIRMAN MCCORMICK: I would make a motion to
5 close the public comment.

6 MS. PROVENCHER: I thought we were going to
7 leave it open.

8 MS. PHILLIPS: I think the motion would be to
9 leave the public hearing open for an additional 10-day
10 period for receipt of written comments at which time at
11 the end of that ten-day. The public hearing would be
12 closed.

13 MS. PROVENCHER: Can I ask a question? Is there
14 reason that we would leave the public hearing open?

15 MS. PHILLIPS: That certainly up to the Board.
16 There certainly considerable opportunity for the public
17 to make comments. We received a large amount of written
18 comments today and there will be an opportunity for
19 additional written comments. That is a determination
20 that's up to the Board. As you can see by the time here,
21 the receipt of public comments takes a considerable
22 amount of time. If the Board wanted to focus on its
23 deliberations at the next meeting, it may make more
24 sense to not continue the public hearing considering
25 everyone's had an opportunity to speak and we don't

1 anticipate any new developments application submissions
2 being made that the public would want an opportunity to
3 comment on. So, for those reasons it is up to the Board.

4 CHAIRMAN MCCORMICK: So, what you are saying is
5 there is not a lot new information that's going to come.

6 MS. PROVENCHER: So, we are certain that were
7 not going to be getting new information that the public
8 might want to respond to? That would be my only concern.

9 MR. RAMIEREZ: There is that ten-day period.

10 MS. PHILLIPS: So, during this ten-day period
11 anticipate that members of the public can submit any
12 additional comments and I think Leah could speak to
13 whether or not Stewart's is going to be submitting any
14 new information during that ten-day.

15 MS. EVERHART: We are going to think about it,
16 but I guess the reality is of the situation is that if
17 there is a public hearing at the next meeting, we will
18 be here and so will everyone else and we all say the
19 same things and then at 10 o'clock we will leave that
20 meeting. I don't think the Board will have any real
21 opportunity to deliberate. From our perspective, the
22 actual holding of the public hearing was delayed. It was
23 delayed by a month from the actual starting. We
24 understand the reason at this point is having more to do
25 providing the county an opportunity to submit so that

1 the Board is compliant with legal mandates not because
2 you are expecting additional facts. The reason you have
3 a public hearing is not to hear people's opinions it is
4 to hear the facts. They are facts that you use when you
5 go to deliberate. I am not anticipating that there's a
6 single fact out there that hasn't yet been turned up by
7 everyone who's been here for this meeting. I don't see a
8 benefit to holding a public hearing only to allow people
9 including Stewart's to come back and talk with you
10 again.

11 MS. PROVENCHER: My question wasn't actually
12 about that. My question is whether you anticipate
13 Stewart's to be offering any other information.

14 MS. EVERHART: I guess here's what I'm
15 thinking: Members of the public have an opportunity to
16 to submit on 10 days from now, if you leave the public
17 hearing open for 10 days. No one is concerned if
18 Stewart's wants to respond to that. So, I guess from our
19 perspective we are saying if you hold a public hearing
20 open, anyone - project opponents, project supporters,
21 the applicant can submit materials to you and eventually
22 were going to have to stop responding to each other.
23 It's going to have to be on the Board. That's our
24 suggestion. I don't know what Stewart's will wind up
25 submitting. We are not revising the application, so I

1 don't think there would be anything that would fall into
2 the category of any additional comment.

3 MR. TASSONE: So, we will keep it open for 10
4 days and wait for these people to commit with more
5 comments and then we will go from there.

6 CHAIRMAN MCCORMICK: So, we are going to close
7 the oral part of the public comment and hold it open for
8 10 days and any written comments the people want to send
9 in.

10 MS. PHILIPS: I think you can say you're going
11 to leave the public hearing open for an additional 10
12 day period for just receipt of additional written
13 comments.

14 CHAIRMAN MCCORMICK: That would be my motion.
15 Anyone second it?

16 MS. MATULEWICZ: I will second it.

17 CHAIRMAN MCCORMICK: Roll call?

18 (The roll was called with the unanimous
19 approval.)

20 Thank you, very much.

21 (Whereas the above entitled prcoeeding was
22 concluded at 10:10 p.m.)

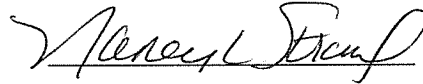
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CERTIFICATION

I, NANCY L. STRANG, Shorthand Reporter and
Notary Public in and for the State of New York, hereby
CERTIFY that the record taken by me at the time and
place noted in the heading hereof is a true and
accurate transcript of same, to the best of my ability
and belief.

Dated: 4-14-20

NANCY L. STRANG

LEGAL TRANSCRIPTION

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