

ZONING BOARD OF APPEALS

Regular Meeting

April 26, 2011

Maurice McCormick, Chairman
Stuart Linendoll
Danny Ramirez
John Huber
Ernie Cupernall

Donald Cropsey, Jr., Building Inspector
Michael Moore, Village Attorney
Kelly Best, Secretary
John Donato, Applicant

Kate Provencher was absent

Chairman McCormick opened the meeting at 7:30 pm.

Chairman McCormick read the legal notice that the Zoning Board of the Village of Altamont, New York, will hold a public hearing pursuant to Article VI, Section 355-42 of the Zoning Law on the following proposition: request of John Donato of 996 Altamont Blvd, Altamont, NY 12009 for an interpretation of the Zoning Law to determine the most appropriate zoning district to locate a bottle redemption center. Said request is made pursuant to a denial to allow a proposed bottle redemption center within a Business Zone per Article VI Section 355-52. Plans were open for public inspection at the Village Offices during normal business hours. Said hearing will take place on the 26th of April 2011 at the Altamont Village Hall beginning at 7:30 p.m.

Mr. Donato reviewed what type of business he would like to conduct. In his opinion, it is not warehousing. He considered it a reverse retail business. Bottles and cans would be picked up each week, more frequent if needed. He did not feel that this type of business would be considered industrial use. The business would be in the back of the building. He would be using about 1500 square feet.

Chairman McCormick asked Mr. Cropsey to explain how he came to his interpretation of the use. Mr. Cropsey presented his reasons for the interpretation of the Zoning Law relating to the request of Mr. Donato. Mr. Cropsey pointed out that the Zoning Law was silent regarding this specific use. Mr. Cropsey tried to categorize the request to similar uses listed. He reviews the Use Schedule found in the Village Zoning Law. None of the uses listed were similar in his opinion. Mr. Cropsey considered the process in which bottles were collected, stored, packaged, returned and redistributed to be consistent with a use found in an industrial category. They are accepting, handling, warehousing and redistributing the bottles and cans. This type of use is typically found in an industrial zone. He felt that the amount of space is not relevant. The use is not listed and not allowed in a Business District. 996 Altamont Blvd is zoned Business. In Mr. Cropsey opinion he considered it a warehousing distribution center. The use would be allowed in an Industrial District. The Industrial District is located further down Altamont Blvd.

Mr. Donato stated that this type of business is relatively new and most municipalities have not assigned this type of use to a district.

Board member Linendoll stated that he has visited two redemption centers and that they were both in industrial parks. Both were open to the general public. One was in Florida and one was in Hawaii. Mr. Donato stated that the one in Schenectady was right on Central Avenue.

Mr. Cropsey stated that the Town of Guilderland has begun address the situation and to develop a definition for recyclable handling facilities. Guilderland has not listed this use either. Guilderland is considering the title of Recyclable Material Handling Facility. He stated it is defined as materials processing facilities of which previously separated non compressible materials or recyclables are processed including bottles, cans but not including composting materials. Cropsey stated that in the Town of Guilderland it most likely would only be approved for placement in the industrial park. The Board discussed whether it is an intermediate destination. The Board clarified that it was not waste materials

Mr. Donato stated that the materials would be picked up once a week, twice if necessary. The target customers would be the general public, groups collecting for fundraising like the Boy Scouts and Girl Scouts. Would not be accepting from bars and restaurants.

The Chairman asked Mr. Moore for some input. Mr. Moore referred to a memo Mr. Moore advised the Board that their role was to interpret the Zoning Law as to the unlisted use request. Mr. Cropsey makes the initial interpretation. Mr. Donato is appealing that interpretation. The Zoning Board can either agree with Mr. Cropsey's interpretation or the Zoning Board can overturn Mr. Cropsey's interpretation. If The Zoning Board agrees with Mr. Cropsey's interpretation, the applicant can ask for a use variance to conduct this type of business in a Business District. If the Zoning Board overturns Mr. Cropsey's interpretation, then the applicant may apply to the Planning Board for a Special Use Permit.

Mr. Donato stated that if he were to open a beverage center, he would be able to take returnable bottles. Mr. Cropsey stated that the receiving of bottles and cans would be considered an accessory use of the primary business of retail. Mr. Donato stated that in his opinion it would be considered a redemption center not a recycling center. Board member Huber stated that this would be considered the first step in recycling. Chairman McCormick asked when does storage of items become warehousing? Mr. Donato asked the Board to look up the definitions of storing and warehousing. Mr. Cropsey stated storing and warehousing meant the same thing. The Board reviewed a number of definitions.

The Board asked if neighbor notifications were sent. Kelly Best did not send out the neighbor notifications. Mr. Moore stated that they should have been notified. Mr. Moore recommended continuing the Public hearing until next month pending neighbor notifications. The Board agreed that it should be continued and that they would also have more time to review and research the appeal.

Mr. Cropsey reviewed the purpose of the public hearing. If the Board upholds Mr. Cropsey's interpretation of the use, Mr. Donato can request a use variance public hearing. Mr. Donato would have to meet the 4 main criteria's as outlined in the Village Zoning Law for the Zoning Board to grant the use variance. If the Zoning Board does not agree with Mr. Cropsey's interpretation, the Mr. Donato may proceed with a request for a

Special Use Permit from the Planning Board. The Zoning Board inquired if stipulations could be attached to the Special Use Permit or if it could be revoked if there seemed to be problems with the business in the future.

Mr. Moore stated that since the Board planned on continuing the Public Hearing, that they also review the memo he sent to Mr. Cropsey a week or so ago. Mr. Moore stated that he would be available to the Board members if they had any questions or comments by telephone or email.

Chairman McCormick made a motion to continue the public hearing until Tuesday, May 10th, 2011 at 7:30 pm Board member Ramirez seconded the motion. All in favor.

Chairman McCormick made a motion to adjourn the meeting at 7:55. Board member Huber seconded the motion. All in favor.

Respectfully Submitted

Kelly Best
Secretary