

## ZONING BOARD OF APPEALS

Regular Meeting

November 2011

Maurice McCormick, Chairman  
Stuart Linendoll, Board member  
Danny Ramirez, Board member  
Kate Provencher, Board member  
John Huber, Board Member

Michael Moore, Village Attorney  
Kelly Best, Secretary  
Jeff Perlee, Applicant  
Mr. Perlee, Sr.  
Mr. and Mrs. Floeser  
Mr. and Mrs. Quay  
Mr. Whalen, Village Liaison  
Mr. LaMountain  
Mr. Snyder  
Mr. Hughes  
Mr. and Mrs. Schmidt

Chairman McCormick opened the meeting at 7:30 pm.

Chairman McCormick read the legal notice opening the Public Hearing for the request of John J. Floeser for a variance of the regulations under the Zoning Law to permit the keeping of more than one boat and/or utility trailer in a rear yard and to allow the temporary storage/parking of a utility trailer in a front or side yard pursuant to Article VI Section 355-22G for property owned by John J. Floeser located at 6 Sunset Drive, Altamont, NY TMN 37.14-1-7 and zoned R20. Plans were open for inspection by the public at the Village Office during regular business hours. The Public Hearing is scheduled to this evening.

Mr. Floeser stated that the Legal Notice was incorrect. He asked the board to refer to the 2<sup>nd</sup> paragraph of his narrative. Mr. Floeser stated that the boat is now kept at another location. The boat could be stored in the garage if brought back to this property for repairs. There is only one trailer. Mr. Floeser wants to park the trailer next to the garage which would be on the left side of the home. By parking the trailer in the back yard it is ruining the lawn. The Board clarified what exactly Mr. Floeser was seeking to do. Mr. Floeser stated that Mr. Cropsey added the second trailer to the request but Mr. Floeser stated it was only the one trailer. Mr. Floeser referred the Board to the narrative. Mr. Floeser stated that he could have put the boat in the garage if he had to because it is only a 15 foot boat and he could remove the tongue of the trailer. Mr. Floeser stated that over the last few years the boat was stored in the back yard with a cover over it.

The Board inquired if Mr. Floeser was asking to temporarily store the trailer in the front or side yard. Mr. and Mrs. Floeser stated that the side yard was preferred, but if the side yard was inaccessible then they would have to park in the front. Mr. Floeser stated that he would like to remedy the parking should a plow push up some snow and he cannot get the trailer back there. Mr. Floeser asked the Board what "temporary" meant. The Board stated that "temporary" was the time period Mr. Floeser was requesting. Mr. Floeser stated that he wanted the variance for as long as he owned the trailer. The Board understood that Mr. Floeser wanted to park the trailer in the side yard and if the side yard is unavailable, park the trailer in the front yard.

The Board asked Mr. Floeser what the trailer was used for. Mr. Floeser stated personal use. The Board reviewed pictures submitted by a neighbor and asked if it was the dump trailer or the horse trailer. Mr. Floeser stated it was

a horse trailer. Mrs. Floeser stated that they only have the horse trailer. Mr. Floeser said he had sold the other trailer last April. He got the horse trailer because it is enclosed and the right price. The Board clarified that the Floeser have a green horse trailer.

The Board asked again what the trailer was used for. Mr. and Mrs. Floeser stated that they move things such as cut down trees and furniture. They consider it a utility trailer. They stated that they do not have any other trailers; the boat is stored on another family member's property and would be stored in their garage if they had to bring it back for repairs. The Board and Mr. Floeser agreed that the only trailer on the property at this time is the green horse trailer.

Chairman McCormick asked if anyone in the audience would like to comment. Mr. Floeser presented the Board with a petition with 16 signatures of neighbors who did not have an issue with the variance being granted. Mr. and Mrs. Floeser stated that 13 of those neighbors have to pass by the Floeser home on a regular basis. He also stated 5 of the people live across the street and would see the trailer every day.

Harold Hughes, 8 Sunset Drive, stated that he lives next door, that the Floeser's have a vehicle for each and every member of the family – averaging 5 vehicles parked in their front yard. He was not in favor of adding a horse trailer to the number of vehicles already there. He is opposed to granting of the variance. He stated that he lived on the left side of the home.

Bonnie Quay, 5 Sunset Drive, asked the Board to read their letter into the minutes. She also asked for a copy of the petition submitted by the applicant. Mrs. Quay stated that the neighbors did not receive notifications of the public hearing. The Secretary provided the Board with the list of those notified as required by the Zoning Law.

Mark Schmidt, 9 Sunset Drive, stated Altamont is not a gated community, that it should be the right of the property owner; it did not present a threat or injurious situation. He had no objection to the granting of the variance.

Bonnie Quay asked to comment. The Board informed her that she is not allowed to comment on other people's opinions.

Chairman McCormick read the letter from Harold Hughes into the record. Chairman McCormick read the letter from Bill and Bonnie Quay into the record. Copies of letters included with official minutes.

The Board asked if the Floeser's considered an enclosure be erected on the side yard. Mr. Floeser said they had gotten some estimates and it was about a thousand dollars. It was financially prohibitive with two children in college. Mrs. Floeser stated that she has never had a problem with her neighbors, that they do have a large family and in regards to Mr. Hughes, the Floesers would consider putting in shrubbery to shield the trailer from Mr. Hughes view. Mrs. Floeser stated that the neighbor on the other side of her home has a trailer parked on the side of the home. The Floesers stated that their trailer is a very small trailer.

The Board asked where the trailer was being parked at the present time. The Floesers stated that it has been parked in their back yard, but it has become a muddy mess. They explained that Mr. Hughes installed a marker along the property line to assist when backing the trailer into the back yard. Mr. Floeser stated if he could just park the trailer in the side yard, he could back up into the driveway and then jot around the side of the garage to park the trailer.

The Board asked how far behind the house the Floeser park their trailer now. Mr. Floeser stated just behind the fence. Mrs. Floeser stated that if they had to continue to park it behind the house, the fence would have to come down. She felt that once winter came with ice and snow, there would be no way to open the gates on the fence and the trailer would be visually exposed.

It was determined that from the front of the house to the gate is approximately 21 feet.

Mr. Floeser stated that their next door neighbor, Mr. Snyder, has had a camper parked right next to his house for the last few years and has never been reported or received a complaint. Mr. Floeser bought the house in 2004 and has had a number of complaints regarding his trailer.

Sean Snyder, 4 Sunset Drive, stated that he has a recreational vehicle and that it is allowed under the Zoning Law to be parked there.

Mr. Floeser read the definition of trailer and recreational vehicle from the Village Zoning Law. He asked for clarification. The Board stated that the Board was here to review the request of Mr. Floeser not to act as code enforcement. Mrs. Floeser stated that they just want to be able to park the trailer on their property in a way to suit both themselves and the neighbors.

Carolyn Schmidt, 9 Sunset Drive, stated she is a neighbor of the Floesers, has to drive by their home on a regular basis, that Harold Hughes is her uncle and she acknowledges the fact that the Floesers are a big family but understands that they are very busy. She stated that having grown up in Altamont and has always seen trailers parked in yards. She doesn't feel that there is anything wrong with it. She has no objection to granting the variance.

Mr. Floeser pointed out where the people on the petition lived on the street.

Bonnie Quay asked why did the Village pass Zoning Law if people could come in and get a variance.

Chairman McCormick made a motion to close the Public Hearing. Board member Ramirez seconded the motion. All in favor.

Mr. Floeser asked if his parking of the trailer would be covered under a grandfather clause under the new law because he has always had a trailer since he bought the home 2004. There was no prior Zoning Ordinance against the parking of the trailer until the new Zoning Law in 2009 was passed. The Board stated that there were numerous public hearings prior to the passing of the new Zoning Law and the new law is based on the findings from those public hearings. The Board discussed the factors listed by law that had to be reviewed when considering a variance request. The Board discussed alternative ways to meet the current Zoning Law, an example being constructing an enclosure or complying by putting in a gravel driveway leading to the back yard or parking the trailer off site. The Board considered if the applicant had the ability to comply with the law but was asking for a variance because it was an inconvenience. The Floeser's stated that they have already added gravel to driveway to widen it and past the gravel is patio stone. Trailer would be taken across the gravel and patio stone onto an area which once planted with flowers but is no longer used.

The Board discussed the impact on the Village if such a variance was granted. They needed to consider if this would set a precedent by granting a variance. The Board stated that there were materials the Floeser could

purchase to save their yard. The Board stated that the Floeser's could approach the Village Board about changes in the Zoning Law.

The Board reviewed the area variance considerations; there have been comments from neighbors not in support of granting the variance, the Floeser's can achieve the goal in some other way, have been able to park the trailer in the back yard in the past, the board is entitled to consider how much weight each consideration is given, by parking the trailer on the side would create a visual impact on the neighbors.

Mrs. Floeser stated that she understood the concept of precedent setting by granting the variance. All they want to do is improve the looks and the use of the property.

Board member Linendoll made a motion to deny granting a variance for Mr. Floeser, 6 Sunset Drive to allow the permanent storage/parking of a trailer in front or side yard after considering the five factors listed in the Village Zoning Law: 1) Board received two letters from adjacent property owners who feel that it would create an undesirable change in the neighborhood. 2) There are other feasible methods, the applicants have parked the trailer in the back yard in the past complying with the current law, the applicants could construct a building in which to park the trailer, the applicants could put in a stone driveway, 3) The possible precedent setting has to be considered and could be substantial if other residents seek the same type of variances. 4) It would create a physical impact on the neighborhood. 5) The Board felt that it is a self created hardship since the Floeser's have been able to park in the back in the past. Chairman McCormick seconded the motion. All in favor.

Mrs. Floeser asked the Board why two letters were given more weight than 16 neighbors who signed the petition that they were ok with the variance request. The Board explained that the Board always tries to find alternatives rather than granting variances.

Chairman McCormick read the new legal notice relating to the request of Jeffrey Perlee for a Variance of the regulations under Zoning Law to permit the construction of a two story addition to an existing single family home. Said addition will contain a two stall garage and additional habitable space on the second floor. A variance is requested to allow a portion of this addition within a rear yard setback. A thirty foot rear yard setback is required; a four foot setback is proposed, a variance of 26 feet is requested pursuant to Article VI Section 355-52 and the density and dimensional requirement chart for property owned by Jeffrey Perlee located at 166 Maple Avenue, Altamont, NY TMN 37.14-2-18 and zoned R20. Plans have been open for public inspection at the Village Offices during normal business hours and the said hearing is scheduled for this evening.

Jeff Perlee stated that his request for an area variance came about because his parents live in the home and the family was planning for the future. He stated that his parents are 83 years old, lived most their lives in Altamont and wish to stay in the home they currently live in. Jeff Perlee would like to provide covered egresses and regresses. He stated that the back door is used as the primary entrance. There is a slight sloop in the property there and no protection from the elements. His parents have spent winters in Florida up until now. Jeff Perlee said he wanted to take advantage of the new Zoning Law that allows for the addition of accessory apartments in the Village. He stated that this was originally a caretaker's home for the property across the street and that it was built on the rear of the property. He feels this creates a hardship under the Zoning Law. He would like to have the ability to construct a two car attached garage and construct habitable living space. Jeff Perlee stated that most of the homes in this neighborhood are bungalow style and was built in the 1920s. Jeff Perlee provided the Board with pictures depicting 156 Western Avenue (home of Carol Lawlor and John Tashjian), the home of Richard Spadaro – depicting the garage on the right of the property and the location of the Perlees small accessory

building, 170 and 172 Maple Avenue depicting garages approximately 4 feet apart, and 170 Western Avenue (home of the John and Kristin Smith) showing that the garage is approximately 5 feet from the property line.

Jeff Perlee stated that the proposed construction would be consistent with the other homes in the neighborhood, that he needs a 2 car garage to meet code for creating habitable living space above it, and that by not building on the side lot he maintains some green space. If he were to build on side lot he would have to install a longer driveway in a looping design, lose green space on Maple Avenue, would have to remove the large fir tree and there already has been a number of old large trees removed in the past few years and finally the Rogotzke kids use the side yard to play in on a regular basis. The Board asked if Jeff Perlee would be taking down the current garage. Jeff Perlee stated that he asked Mr. Spadaro what he would like Mr. Perlee to do and Jeff Perlee has not heard back from Mr. Spadaro. Jeff Perlee listed the garage on the plot plan as a shed because it is only a one car garage and is too small to park any car in.

Jeff Perlee stated that he did not feel that the proposed construction will affect the environment, that the hardship was not created by the Perlees; the house was built that way originally. It was determined that the porch is original and Jeff Perlee asked why the area was zoned R20. Dean Whalen stated the Board did debate the Zoning and understands not all house fit. The Board acknowledged that the property is considered a corner lot and therefore has two rear yards and no side yards. The Board also stated that it seems to be a small lot.

Jeff Perlee would like to create an accessory apartment over the garage. He understands he needs to meet the minimum area requirement and that he would have to go in front of the Village Planning Board to get approval for an accessory apartment above the garage. He stated that the exterior footprint depicted on the drawings were accurate. Jeff Perlee indicated that there would be a distance of four feet from the back of the garage to the property line. He also stated that he would be installing a sidewalk which would be approximately three feet wide leaving a green space of one foot.

The Secretary informed the Board that neighbor notifications as well as the local fire department and Fire Inspector.

The Chairman read the recommendations from Albany County Planning Board which just referred the matter back to the local Zoning Board for consideration. The Board stated that after reviewing the plans, it noticed one step was protruding past the building. Jeff Perlee stated that the staircase could be moved back further.

The Board inquired if Jeff Perlee could enclose the stairway. Jeff Perlee stated that it could be done, especially if his parents were to ever reside above the garage but he did not think they would. The Board inquired about rain water runoff and how did it affect Mr. Spadaros property. Jeff Perlee stated that there was a swale and water runs to the back of the yard. The Board inquired about the lighting on both the back and side of the proposed addition. Jeff Perlee stated that he would install the lighting as required when a building permit was issued. Board stated that lights can be shielded. The Board stated that the size of the project seemed overwhelming.

Jeff Perlee stated that the garage addition would be consistent architecturally with the home. The Board reviewed the property line in the side yard. Jeff Perlee stated it went to the stone wall along the Rogotzke's home. He felt that it would change the view, that the proposed construction would be consistent with the other homes on Western Avenue and that he thought Mr. Spadaro lives basically on the other side of his home.

Jeff Perlee stated that in his opinion the landscaped sidewalk in the back would be better than the small amount of grass that is there now.

The Board asked if the elevation of the driveway would be impacted if the variance was granted. The Board was concerned about the drainage and suggested that a drywell may need to be installed.

Jeff Perlee stated that by reducing the garage to a 1 ½ car or 1 car garage would reduce the volume of space and headroom in the living space above the garage.

Mr. Moore advised the Board that per the Zoning Code that the Board is to grant the minimum variance which is necessary and adequate to achieve the goal of the applicant.

The Board discussed the fact that there would only be a one foot buffer in the rear once a sidewalk is installed. The Board also was concerned about the size of the proposed building. Jeff Perlee stated that the roof line will be staggered by different roof lines and through architectural design. The Board discussed alternative plans including building to the north side of the home. The Board determined that more information should be reviewed prior to making any decision.

The Board discussed doing a site visit. The Board discussed meeting on Tuesday, December 20, 2011 due to the holidays.

Chairman McCormick made a motion to continue the Public Hearing until Tuesday, December 20, 2011 at 7:30 pm. Board member Provencher seconded the motion. All in favor.

Jeff Perlee was asked to provide the Zoning Board with a plot plan to scale on the proposed plan and a second plot plan to scale depicting the garage being built on the north side of the property.

Board member Linendoll made a motion to accept the minutes of October 25, 2011 as amended. Chairman McCormick seconded the motion. All in favor.

Board member Provencher made a motion to adjourn the meeting at 10:00 pm. Chairman McCormick seconded the motion. All in favor.

Respectfully Submitted,

Kelly Best  
Secretary