

## ZONING BOARD OF APPEALS

Regular Meeting

October 25, 2011

Maurice McCormick, Chairman

Stuart Linendoll

Danny Ramirez

John Huber

Kate Provencher

Ernie Cupernall, Alternate

Dean Whalen, Village Liaison

Michael Moore, Village Attorney

Kelly Best, Secretary

Geoff Brown, (representing Robert Nadeau), applicant

Scott and Liz Hopkins, applicant

Stephen Walrath, representative for Gladys Short

3 residents

Chairman McCormick opened the meeting at 7:30 pm.

Mr. Geoff Brown informed the Board that he is representing Robert Nadeau that Mr. Brown paid the application fee and is in a lease to purchase contract with Mr. Nadeau for the property located at 974 Altamont Blvd.

Chairman McCormick read the legal notice opening the Public Hearing for the request of Robert Nadeau for an interpretation under the Zoning Law to determine if the use of an existing warehouse/office building by a lawn and landscaping company is consistent with the prior Special Use Permit approvals allowing the use of said building as a roofing business and construction company pursuant to Article VI, Section 355-52 for property owned by Robert Nadeau situated at 974 Altamont Blvd, Altamont, NY 12009 TMN 48.06-3-12 and Zoned LI. 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. Brown stated that he was using the building in the same manner as Mr. Nadeau. Mr. Brown has been operating out of this building since October 15, 2010. Chairman McCormick asked Mr. Brown to provide his mailing address. Mr. Brown stated that he receives his mail at 871 Altamont-Voorheesville Road, Altamont, NY 12009. Mr. Brown was asked to describe how he uses the property. He stated that he stores landscaping equipment in the buildings, he does not and will not store anything outside the buildings. His hours of operation are 7 am to 7 pm majority of the year but during spring and early summer his crew may work from 6 am to 8 pm. He stated that his equipment is loaded on to trucks and trailers. Mr. Brown stated that his crew usually works Mondays through Fridays but may work a Sunday once in a while.

Mr. Neil Taber, 970 Altamont Blvd, stated that Mr. Brown has improved the property considerably and is in the best shape it has ever been in. Mr. Taber stated that his property is surrounded by the property of Mr. Nadeau and Mr. Brown has done many improvements on the buildings and has even asked the Tabers for input relating to painting the buildings and other issues.

Mrs. Kelly Best, 979 Altamont Blvd, agreed with Mr. Taber. She also stated that Mr. Brown staff was very considerate of the neighbors, that vehicle traffic in and out is a lot less and more controlled and the noise level from the crew has decrease. She is very happy about the improvements made to the property.

Mr. Brown stated that he grew up across the street from the property and wants to ensure that he will respect the neighborhood. Mr. Brown stated that all his sand, stone, mulch and gravel will continue to be stored at his property located at 871 Altamont Voorheesville Road. He currently has a Special Use Permit for that from the Town of Guilderland. He will not be storing these items anywhere on the property at 974 Altamont Blvd. Mr. Brown is installing gutters and painting the buildings at 974 Altamont Blvd.

Mr. Moore clarified the purpose of the public hearing and reminded the board that if they determined that 'Landscaping' would be a allowable use in a Light Industrial zone, the use would be applicable to all future landscaping businesses not just that of Mr. Brown.

The Board reviewed the Zoning Code and the Use Schedule to determine if 'Landscaping' was compatible with other allowable uses in the Light Industry zone. The Board discussed the definition of 'Agricultural' as listed in the Village Code.

The Board asked if there were any other public comment. There were no others than that of Mr. Taber and Mrs. Best. Board member Linendoll made a motion to close the public hearing. Board member Huber seconded the motion. All in favor.

The Board reviewed the allowable uses for Light Industry. The Board felt the Planning Board could add stipulations or restrictions on the Special Use Permit if granted. The Board reviewed the definition of 'Agriculture' which is not allowed in a Light Industry zone. The Board discussed adding a use to the Village Code. Mr. Whalen reviewed how changes and updates are made to the Village Code. The Board discussed considerations which would be needed to create a definition for Landscaping and debated whether to table the discussion until next month allows time for more review by individual board members. The Board determined that a definition of a specific use should be created first prior to the Board deciding whether that use is permitted within a particular zone.

Board member Linendoll made a motion that under the recommended definition of 'Landscaping' would be allowed in the Light Industry zone. The recommended definition of 'Landscaping' is as follows: Storage of Landscaping/lawn care equipment necessary for the performance of such business and that no stockpiles of sand, stone, mulch or other materials be stored on premises and there should be no agricultural or farming activities as defined 'Agricultural' in the 355.5 of the Village Code. Chairman McCormick seconded the motion. All in favor.

Chairman McCormick read the legal notice relating to the request of Mr. Scott Hopkins for a Variance of the regulations under the Zoning Law to permit a portion of a detached single-story garage/carport structure within a 5 foot side yard setback per Article IV Section 355-31A for property owned by Scott Hopkins located at 111 Fairview Avenue, Altamont, NY 12009, TMN 37.18-7.31 zoned R10. Plans have been open for public inspection at the Village Offices during normal business hours and the said hearing is scheduled for this evening.

Mr. Hopkins reviewed the circumstances leading up to the request for a variance. It was determined that a Building Permit was issued in July 2011 before the project began. No variance was required at the time. The contractor proceeded to construct the carport. After the storms in August, Mr. Hopkins spoke with his neighbor closes to the driveway regarding the possibility of the removal of specific trees. This resulted in a new survey be completed by the neighbor and in the process it was discovered that one of the carport post was 3 inches short of the minimum 5 foot side yard setback. Once informed of the infraction by the Town Zoning Enforcement Officer, all work was stopped on the project and Mr. Hopkins applied for this variance. He states that is would be a financial hardship to tear down the work already completed and rebuild it 3 inches away. There was discussion whether the markers were in place or not prior to the construction.

The Board asked if there were any comments from the community.

Mr. Walrath stated that he completed both surveys for Mrs. Short. He stated that none of the pegs were removed. Mr. Walrath presented the Board with a letter authorizing him to speak on behalf of Mrs. Short, 109 Fairview Avenue. He then presented a letter to the Board which Mrs. Short asked to be read into the minutes. Chairman McCormick read the letter (see attach) into the record.

Joe McCullen, 115 Fairview Avenue, stating he attended the meeting to observe and did not wish to comment.

The Board discussed if this misplacement should have been discovered during the footing inspection. The Board also reviewed the area variance conditions.

Mrs. Hopkins asked the Board to consider the fact that the couple purchased a home which was extremely run down and have clean up and improved both the home and property.

Ernie Cupernall, Alternate Board member asked if the Hopkins had incurred extra cost due to the misplacement by contractor of the footing and the fact the Building Inspector did not catch the misplacement during the footing inspection.

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

The Board discussed whether a copy of the submitted plans for the Building Permit would have been useful for this hearing.

Mr. Whalen stated that the Board cannot place liability on the Town of Guilderland Building Department or the Inspector. The law for compliance falls on the homeowner or professional performing the work. Mr. Moore agreed with Mr. Whalen.

The Board was interested in when the building would be finished if the variance was to be granted. The Hopkins stated that as soon as the contractor was available. It was determined that the Hopkins has 1 year to complete the project, and if it was not completed by July 7, 2012, they would have to apply for a renewal. The Hopkins felt it would be completed within the year.

The Board reviewed the factors outlined in the Zoning Law. Board member Provencher made a motion to grant the 3 inch variance for the construction of a carport at 111 Fairview Avenue as per the request of Mr. Hopkins with the following findings: That the Board did not find the variance would create an undesirable change in the character of the neighborhood or create a detriment to nearby properties; that at this time the benefit could not be achieved by some other manner; the 3 inch variance request is not substantial; that in granting the 3 inch variance, there will be no adverse effect or impact on the physical or environment conditions in the neighborhood; the alleged difficulty was self created by unfortunate circumstances and neighbor input has been considered. The Board attached the following conditions in granting the variance: the gable ends and eaves are enclosed and painted to match the house; all the work is to be completed within a year. Board member Huber seconded the motion. All in favor.

The Board discussed that Mr. Perlee was not present and whether they should open the public hearing this evening. There was also discussion relating to a corner lot. It was determined that if a corner lot has two front yards, then the other sides would be considered two rear yards. The Board reviewed the application packet.

Chairman McCormick read the legal notice for a conduct a Public Hearing of the Village of Altamont Zoning Board of Appeals pursuant to Article VI of the Zoning Law for a request of Jeffrey Perlee for a variance to permit the construction of a two story addition that 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 30 foot rear yard setback is required; a 12 foot setback is proposed, a variance of 18 feet is requested pursuant to Article VI Section 355-52 and density and dimensional requirement chart for property owned by Jeffrey Perlee located at 166 Maple Avenue, Altamont, NY 12009 TMN 37.14-2-18 and zoned R 20. Plans were open for public inspection at the Village Offices and the Public Hearing is scheduled for tonight.

Chairman McCormick made a motion that since the applicant was not present or a representative that the Public Hearing will be tabled until November 29, 2011 with a request that Mr. Perlee provide a plot plan and pictures/documentation confirming that other bungalow style homes in the area have similar additions. Board member Linendoll seconded the motion. All in favor.

Chairman McCormick made a motion to adjourn the meeting at 9:48 pm. Board member Linendoll seconded the motion. All in favor.

Respectfully Submitted,

Kelly Best  
Secretary