

Zoning Board of Appeals  
Meeting Minutes  
October 14, 2014

Maurice McCormick, Chairman  
Michael LaMountain  
Stewart Linendoll  
John Huber  
Kate Provencher  
Danny Ramirez

Kelly Best, Secretary  
Dean Whalen, Trustee, Liaison  
Rich Murphy, Key Bank Property Manager  
Stephen Pembrook, Electrician Key Bank  
Joan Kappel, Resident  
Michael Hill, Resident

Chairman McCormick opened the meeting at 7:05 pm.

Chairman McCormick read into the record the following:

Notice is hereby given that the Zoning Board of Appeals of the Village of Altamont, New York, will hold a public hearing pursuant to Article VI Section 355-52 of the Zoning Law on the following proposition: Request of Key Bank for a Variance of the regulations under the Zoning Law to permit the installation of exterior lighting that exceeds the limits of the Village Code in order to meet the minimum requirements of the NYS ATM Safety Act pursuant to Article IV Section 355-18 for property owned by Key Bank situated at 103 Park Street, Altamont, NY 12009, TMN 37.18-6-26 and zoned CBS. Plans were open for public inspection at the Village Office during regular business hours. The hearing is scheduled to take place this evening.

Chairman McCormick read all 28 property owner names and addresses who were notified of the Public Hearing into the record.

Chairman McCormick asked Mr. Murphy to go over the application with the Board.

Mr. Murphy stated that Key Bank uses Mastercard and Mastercard requires that ATM be open 24 hours, Key Bank needs to update the lighting to meet the NYS ATM Safety Act. Mr. Murphy states that the plan is to redirect all the light to the ATM. Mr. Murphy turned the floor over to Mr. Pembrook.

Mr. Pembrook stated that he visited the site, made measurements. The plan includes installing 3 poles along white fence directly across from ATM. These lights will be down shielded. All lights are to be pointed at the Building. There would one light mounted on each end of building (must be 60 feet each side of ATM). The light fixture is a no glare. There is no bulb in these fixtures. The lighting is directed down. It was determined that the distance between the Building and the white fence is approximately 37 feet. 34 feet is pavement. The plan is to remove the older light poles along the fence line. There will be a flood light on the canopy directed directly at ATM. It has to be tilted down.

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Mr. Pembroke stated that the poles in the parking lot at this time are only 8 feet in height. They are the Victorian style light poles. The new poles would be an equipment upgrade, LED being more efficient.

Key Bank has been with Mastercard for the past year and the ATM has been operating 24 hrs. Mr. Murphy stated that it is preprogrammed by Mastercard and Key Bank has no access to the software to turn ATM off and on.

The Board inquired if the same level of lighting would be required if the ATM were to be install in the vestibule. Mr. Pembroke state that is the same level would be required.

Board member Linendoll stated that he would like an on-site mock up demonstration of the lighting proposed to truly evaluate the levels and spill over. He stated that the lights affect not only the adjacent property owners but also the use of the village park (Orsini Park). He would like the board and the interested neighbors to have the ability to view the proposed lighting prior to any approval. He also mentioned that Key Bank has not followed the stipulations given regarding the current lighting as directed in current Special Use Permit. The lights are suppose to be turned off approximately ½ hour after dark.

Mr. Pembroke stated that the plan called for 12 foot poles. He stated that footlight levels would drop to the bare minimum around the remainder of the parking lot. The lights along white fence in rear of building would be 12 feet in height and point at the building as not to shine in to adjacent properties. He stated that the initial lighting would more than likely provide more illumination than required but the light loses it intensity over a period of time. By the time the inspectors make their way to the bank, the light will just barely met the required amount. Banks are inspected and face fines if lighting is inadequate. Banks must meet state code and the Banking Department oversees all lighting.

It was confirmed that the proposed lighting was only required because of the ATM by Mr. Pembroke.

The Board discussed the mock up demonstration. It was determined this action was critical prior to any Special Use Permit being approved. The Board felt that the lighting will affect not only the Bank, but the park, the general atmosphere of the Village and the yards abutting the bank.

Joan Kappel, 167 Main Street, asked to give some historic background regarding the bank. Mrs. Kappel stated that she had read the legal in the newspaper and had not received the notification sent by Kelly Best. She stated that her and her husband purchased their home on Main Street in 1965. At that time she stated that they inquired about Park Street zoning with the Village and were told that the street would remain residential. The only business on the street per her statement was the old Key Bank. (A brick structure that was located in the main parking lot of Key Bank). Stated later that Key Bank wanted

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the entire street zoned Business. Stated that the Key Bank President was on board and that the board met in executive session and rezoned the entire side of Park Street. Stated that this was not a published hearing. Stated that since the ATM has gone in without a permit and Mr. Cropsey tried to fix it. She also stated she could read a newspaper at her home on her back porch with all the light spilling over on to her property.

Mrs. Kappel stated she objects to a 24 hour ATM for the following other reasons besides the lighting issue: skateboarders making a lot of noise and hanging out there; idling trucks because their fumes drift directly on to her property and general security. She stated that people will end up in her back yard. She stated once the leaves were gone, that without foliage it will be too bright. She stated that she considers this a self created hardship because Key Bank signed up with Mastercard which requires 24 hour ATM. She reviewed the master summary from the 2006 comprehensive plan for the village regarding lighting and noise. She considers it an attractive nuisance. She stated she was a past member of the ZBA and had just step down when the last lighting plan was approved. She stated again about the diesel trucks and the fumes.

Michael Hill, 172 Main Street, stated that he did not receive the notification until Thursday of last week and did not have time to do thorough research. He stated that his neighbor did not receive the notification either when he had spoke to him. Mr. Hill pointed out that the Key Bank is a white building, that there would be glare coming off the building. He stated that there must be some variances under the ATM Safety Law available from Banking Department. He wanted to know if Key Bank explored this with the Banking Department. He acknowledged that Key Bank indicated that the lighting would be just as intense if the ATM was moved into the vestibule. He feels that this should be also investigated. He stated in his opinion that Stewart Shops lighting is still more intense than it needs to be. He suggested that Key Bank explore substitute security measures and work with Mastercard who may offer more options to Key Bank.

The Board indicated that they need to be informed of the public concerns and discussed continuing the Public Hearing. There was some concern over the neighbor notifications not be delivered. The Board asked the Secretary to mail a second notification to the neighbors regarding the upcoming meeting date and continued Public Hearing. The Board asked Mr. Murphy and Mr. Pembroke to ask Key Bank to research other options than keeping the ATM open 24 hours and bring those options back to this board.

The Board asked if Mr. Pembroke had the current foot candle readings for Key Bank. He stated he did not. The Board asked him to provide them with this information.

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The Board will also ask the Village Attorney to check and find out if there is a way that the ATM can be shut down at night, explore other lighting options allowed and if there are any variances the applicant can apply for to the Banking Department.

The Board asked that Mr. Murphy and Mr. Pembroke identify correctly all the current light poles with specifics including height, design and foot candles illumination as well as any other information that might be helpful.

Board estimated that the ATM was installed in 2002, that is was not to operate 24 hours under the Special Use Permit issued at that time. Secretary will research exact details of SUP and date. The Board was concerned about Mastercard dictating what the Board does in the Village.

The Board discussed continuing the Public Hearing and asked Mr. Murphy and Mr. Pembroke to bring back information on possible variances from the Banking Department and other possibilities. The Board would also like all the neighbors notified again. The Board discussed that if there was to be a mock up lighting, it should be done when there are no leaves on the trees. The Board was informed by Board member Ramirez that the proposed wall packs have no controls.

Board member Provencher made a motion to continue the Public Hearing for Key Bank until Tuesday, November 18, 2014 at 7 pm to obtain additional information and for neighbor notifications to be sent out again and give the residents a chance to comment as well as Key Bank time to gather information regarding other options and the possibilities of getting variances from the Banking Department. Chairman McCormick seconded the motion. All in favor.

The Board wanted the current Zoning Enforcement Officer to be notified that Key Bank was operating the ATM 24 hours a day in violation of the Special Use Permit which was issued when the ATM was installed. The Secretary was instructed to email the Zoning Enforcement Officer.

Joan Kappel asked if the mention of the operation of a 24 hour ATM be included in the neighbor notifications. The Board stated that the only thing that this public hearing related to was the request for a variance in regards to the lighting.

Chairman McCormick made a motion to accept the minutes of September 9, 2014. Board member Huber seconded the motion. Board member LaMountain – approved; Board member Linendoll – approved; Board member Huber – approved; Board member Provencher – abstain; Chairman McCormick – approved. Motion carried.

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The Board discussed reviewing the Special Use Permit and minutes from previous meeting with Key Bank. The Secretary will try to gather all the information and forward it to the Board.

The Secretary informed the Board members that the law requires all Board member complete 4 hours of training each year and only Mr. Ramirez has completed the training. The Secretary will follow up with NYCOM regarding the webinars offered. She was asked to explore the possibility of having them available in the evenings.

Board member Linendoll made a motion to adjourn the meeting. Board member LaMountain seconded the motion. All in favor.

Respectfully Submitted,

Kelly Best

Secretary ZBA