

VILLAGE OF ALTAMONT  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
TUESDAY, April 11, 2017

Present:

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

Kelly Best, Secretary  
Dean Whalen, Board Liaison  
James Sullivan, Applicant – 161 Main St

Chairman McCormick called the meeting to order at 7:00 pm. The Board extended its congratulations to Board member Huber for volunteering to serve for five more years. The Board also acknowledged that Board member Linendoll decided not to continue as his term was up. Alternate member LaMountain will now become an acting Board member. It was noted that no alternate has been appointed at this time.

Chairman McCormick read the following legal notice: 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 355 Section 31 of the Zoning Law on the following proposition: Request of James and Mya Sullivan for a 2 foot side yard setback variance under the Zoning Law to permit an accessory structure overhang to be 3 feet off the property line instead of the required 5 feet situated at 161 Main Street, Altamont, NY 12009, Tax Map Number 37.18-7-2, zoned residential 10. Plans open for public inspection at the Village Offices during normal business hours. Said hearing will take place on Tuesday, April 11, 2017 at the Altamont Village Hall beginning at 7:00 pm. Dated March 20, 2017.

Mr. Sullivan stated that he was taking down the existing structure. He stated that it cannot be salvaged. He stated that there was some prior work done before they owned the property. He intends on building a new 2 car garage. He stated he is changing the roof line by 90 degrees to face north south. He was doing this for two reasons: He stated that the rain runoff currently floods the neighbor's yard and he intends to install solar panels on the roof. He stated that he planned a board by board dismantling. He stated that 90% of the rain runoff goes directly on to the neighbor's garage walls and ground.

Chairman McCormick asked if it was going to be a complete tear-down of existing building. Mr. Sullivan stated it was going to be a dismantling, board by board because of the proximity of the neighbor's building and there are some boards that are salvageable.

Mr. Sullivan stated that the dimensions on the plot plan are not accurate. The plot plan is from prior to him owning the property and there was an additional part on the building. Mr. Sullivan stated that the current building is different than what he is planning on building. The current building is 16 feet wide and 24 feet deep. The new structure is being built to mirror his neighbor's building. This way the buildings will be lined up better. His current building is causing shading on the neighbor's vegetable garden and yard. He is moving the location of the current building. He plans to bring it forward by about 5 feet. He stated that the new structure will be 28 feet wide.

The Board inquired about the height. Mr. Sullivan stated that he thought it was 35 feet. He stated that the height of the new building would be less than 30 feet.

Board asked if he could move building further away from property line. Mr. Sullivan stated that he is moving it to comply with the 5 foot side yard set-back. He stated he did not want to move it over any further because then it cuts off the view to half his property. In his opinion, it would not be ideal, he has two little kids and he would not be able to see them.

The Board determined that the new structure is an accessory building. The board reviewed 355-1(6)(a) Dimensional Criteria of the Village Zoning Code. The Board discussed the fact that the code does not allow an accessory structure to be over 15 feet in height.

Dean Whalen stated that the Board was correct and Mr. Sullivan would need two variances. It was clarified that the chart was for homes, not accessory building. Dean Whalen stated that there really should be a clarifier noted that the chart is based on primary use buildings. It was determined that the garage was an accessory building if it is unoccupied or unattached.

The Board asked if this was news to Mr. Sullivan and he stated it was, even after his discussions with the building inspector. Dean Whalen stated that 355-16 (a) would override but that is not the case in this situation.

Mr. Sullivan stated that if he was to only be allowed to build to a height of 15 feet, it would defeat the installation of solar panels. The Board discussed whether they could consider the height variance needed at this meeting. It was determined that they could not, due to the fact that there is no application and required documentation to base decision on and that a legal notice would have to be published and neighbors notified of the height variance request. The applicant asked when the next meeting would be held. The Board stated that it would be the second Tuesday in May but they would work to accommodate the applicant. The applicant stated that he could wait until the next meeting to have the Board review an application for the height variance and that he would be able to at least take down the current structure in the meantime. He stated that he could not even start construction until he got out of school in June.

The Board asked the applicant how high the current structure is and he stated that it was close to 24 feet.

Board member Provencher stated that the Board should also review the solar portion of the Village Code. It was determined that the Village Code only states that it is allow but does not regulate type, size, height of panels, etc. Dean Whalen states that the applicant cannot amend the application at tonight's meeting. The application in front of the Board tonight is not for the footprint but the overhang. Mr. Sullivan stated that there was some confusion as whether or not a variance was required for that. Dean Whalen stated that the part of Village Code he read states that a variance is required for the overhang. Dean Whalen stated that 355-16(a) is very explicit. The Board felt that since incorrect information was given to Mr. Sullivan regarding the height and that he should not have to pay a second fee when he submits an application for the height variance.

The Board discussed whether or not a variance is required for the overhang of the structure which extents 2 feet into the required side yard setback. The Board reviewed 355-16(b) of the Village Zoning Code. Mr. Sullivan stated that 2 feet would be the maximum. He stated that it was just a rough number, based on fitting the solar panels on building. After further discussion, the Board felt Mr. Sullivan did not need a variance for the overhang per Village Zoning Code but will consider granting it. Dean Whalen read the Village Code exceptions to 355-16(B)(b) which include cornice or eave or other similar architectural feature: three feet into any yard. Dean Whalen stated the eave and overhang are the same thing. He also stated that the code just read was very common in most municipalities. The Board agreed that Mr. Sullivan really did not need the side yard setback but definitely needs the height variance application submitted. The Board stated that they could grant the side yard setback variance just to be on the safe side, even though they felt it was not even required per Village Code. The Board again stated that they will waive the fee for the next time Mr. Sullivan comes before the Board for the height variance. Board member Provencher stated that she was not comfortable granting a variance that the applicant doesn't need and what repercussions it may create. Chairman McCormick stated that Glenn feels that the applicant needs a side yard setback variance and not one for the height and the Zoning Board feels just the opposite. Both Dean Whalen and the Board stated that there may be something in the code that Glenn is aware of and that they are not seeing. Board member Provencher stated that she was then comfortable granting the side yard setback variance. Chairman McCormick stated that Glenn would have been at the meeting but he was at a meeting in Voorheesville relating to the Stewart's application. Chairman McCormick stated he spoke with Glenn on Sunday prior to this meeting. The Board reviewed Mr. Litten's written comment.

The Board discussed with Mr. Sullivan the roof line and he stated he planned to change it to allow for installation of solar panels. He stated that the larger panels would be facing the back of the property. The height is based on allowing the

maximum amount of energy gathered by the solar panels. He also stated that the height and pitch of the roof allowed for a second floor to be used for additional storage. He stated that he did not have a usable attic or basement that is suitable for storage. The Board acknowledged the Village has a lot of ground water.

The Board acknowledged that 16 neighbor notifications were sent. One letter was sent in favor of the board granting the variance. This was from Simon Litten of 163 Main Street. It was determined that he is the next door neighbor – 163 Main Street. There was no other communications or comments from the public.

Dean Whalen and the Board discussed that the Zoning Board of Appeals has the final say on the Interpretation of the Law and agreed that they have the final say when they disagree with the Zoning Administrator.

Board member Provencher made a motion to grant the 2 foot side yard setback variance for the overhang on an accessory structure at 161 Main Street with the following findings and conditions: Next door neighbor is in favor, no negative comments from any other neighbors, under the Village Zoning Code Article 355—16 (B)(b) the Board doesn't believe the variance requested is necessary, the age of the building, that by granting a variance it will not produce an undesirable change that in fact it will be a desirable change, it will decrease rain water runoff onto the neighbor's property, the building is deteriorating and must come down, and the conditions as listed by Village Code relating to the undesirable change, benefits sought, request is substantial, produce an adverse effect or self-created do not apply because the Board feels that the variance is not even required under the Village Zoning Code. Chairman McCormick seconded the motion. All in favor.

The Board stated that Mr. Sullivan needs to apply for a variance in regards to the height of the accessory building as prescribed under the Village Zoning Code.

Board member Provencher made a motion that the Zoning Enforcement Officer is to waive the fee for Mr. Sullivan when he applies for a variance for the height of the accessory building within the next year. Board member Ramirez seconded the motion. All in favor.

The Board informed Mr. Sullivan he will have the final plans for the building to be submitted with the height variance application for the next meeting. The Board felt they needed to follow up with Glenn to determine how he was interpreting the Village Code. The Board asked that Mr. Sullivan take pictures of the current building before he takes it down. That will help establish the height of the existing building and help the Board at the next meeting. The Board stated that once the building was down, there would be nothing to prove that the new building was similar in height. And if the Board granted the height variance, they would have that rational to back up their decision. Mr. Sullivan agreed. Mr. Sullivan stated that the current building is about 24 feet high. Mr. Sullivan is hoping to produce of energy to do both his house and a car. The Board felt they needed to follow up with Glenn to determine how he was interpreting the Village Code.

Chairman McCormick agreed to contact Glenn to inform that this Board feels Mr. Sullivan has to apply for a variance relating to the height of the proposed accessory building. The Board agreed that an email would be better than a telephone call.

The Board discussed maybe a changing the code to allow accessory buildings (garages) in certain zones of the village (ex R-10) to have a greater height than the 15 ft now in Village Code. Dean Whalen stated it could be customized by district.

It was determined by the Board that the type of garage Mr. Sullivan wants to build is a saltbox.

The Board talked about looking into the installation of solar panels and if the Village should have any type of regulations on the books in regards to type, height, placement, etc. Kelly Best had provided the Board members with a packet of information she received from Chairman Wilford of the Planning Board. The Board agreed to review it and was referred to Chairman Wilford for any further information regarding what he had learned.

The Board then discussed issues of conditions of old variances and special use permits not be met once the applicants were granted the variance or special use permit. They talked about the fence on the corner lot on Kushaqua and Bozenkill, bushes required along Mr. Haines fence, landscaping along fence on Schoharie and Main, the canopy covering on Stewart's gas canopy, and the status of the corner lot on Thatcher and Main Street. Chairman McCormick will leave a memo letting Glenn know that the Board would like him to attend next month's meeting to discuss the Village Code and the above mentioned issues.

Board member Provencher made a motion to approve the minutes from the September 27, 2016 meeting. Board member Ramirez seconded the motion. All in favor.

Board member Ramirez made a motion to adjourn the meeting at 8:05 pm. Chairman McCormick seconded the motion. All in favor.

Respectfully Submitted,

Kelly Best