

Zoning Board of Appeals  
Regular Meeting  
October 9, 2018

Present:

Maurice McCormick, Chairman  
Kate Provencher  
John Huber  
Danny Ramirez  
Isaiah Swart

Lance Moore, Building Inspector  
Dean Whalen, Village Trustee  
Kelly Best, Secretary  
Mr. David Rose, Applicant  
Mr. Adam Meyers, Applicant  
Mr. Mark Jacobson, representing Mr. Meyers  
8 members of the public

Chairman McCormick opened the Public Hearing regarding Mr. Rose by reading the legal that the Zoning Board of Appeals would be holding a public hearing pursuant to Article 355-57 Attachment 2 Density and Dimensional Requirements Chart of the Village Zoning Law for the request of Mr. David Rose for a 1 foot side yard set-back variance under the zoning law to permit the construction of an attached deck pursuant to Article 355 Section 57 for property owned by David and Diane Rose located at 160 Western Avenue, Altamont, NY 12009. Tap map number 37.14-2-13 and zoned R20. Plans were open to the public during normal business hours for inspection. The said hearing will take place tonight at Village Hall.

Mr. Rose stated he was replacing an old deck which he has already removed about five years ago during major renovations. The deck will be 30 inches high. Mr. Rose stated that there would be railings and stairs. He also stated that there will be no walls or roof. He stated that he added an 8 foot addition. He showed the board where it was located on the drawings. The proposed deck would be 14 feet from the side yard line. He is a foot short of the required 15 foot side yard set-back. He stated his neighbor has a stockade fence.

It was determined only the back corner of the deck would need a variance due to the shape of his lot. The Board also determined that Mr. Rose's home was built at an odd angle on the property. He also stated that the windows are not perfectly symnetric.

The Board determined that the addition did not require a variance. The Board reviewed the plans. Some members stated that they visited the site prior to the meeting.

The Board asked for public comments. There were none.

Some Board members asked the Secretary if permits were obtained for renovations and garage. Secretary informed the Board that this is not her role and if they had those concerns or questions, they should have contacted Mr. Moore prior to the meeting.

Chairman McCormick made a motion to close the public hearing. Board member Provencher seconded the motion. All in favor.

The Board went over the area variance conditions outlined in the Village Code which must be considered when reviewing a variance request. They determined that by granting the variance it would not create an undesirable change or detriment to nearby properties; that the benefit sought cannot be achieved in a different manner; the request is not substantial; the variance will create no adverse effect and finally the Board determined it was self-created, it did not preclude the granting of the variance. The Board felt Mr. Rose definitely asked for a minimal variance needed.

The Board asked Mr. Moore if the placement of the stairs on the deck created a safety issue. Mr. Moore stated it did not. Mr. Moore reminded the Board that any unpermitted construction fall under his role as code enforcer and the construction of the deck was determined by building code which was also his job as building inspector and that their job was only consideration of the variance request which Mr. Moore determined was only 6 and half inches but he rounded up to a foot.

The Board suggested that he could shorten deck and the variance would not be required. A Board member also asked about height of deck and need for railing. Mr. Moore stated that it was 30 inches and Mr. Rose is not required under building code to install a railing. Mr. Moore again stated that this is not the role of the board to review construction plans, their role is to only consider the variance. Mr. Moore stated that he and Mr. Rose already have gone over building plans. Mr. Rose stated that there will be a railing on the deck and stairs. Mr. Rose discussed what was necessary under code and what would be safe.

Board member Provencher made a motion to approve a 1 foot side yard variance to construct a deck at 160 Western Avenue per request of Mr. David Rose with the rationale: it would not produce an undesirable change or detriment to nearby properties; that the benefit sought cannot be achieved in a different manner; the request is not substantial; the variance will create no adverse effect, it is self-created, it did not preclude the granting of the variance, it could be avoided if the applicant changed the size of the deck but it is a very small variance and there was no public adverse comments. Chairman McCormick seconded the motion. All in favor.

Chairman McCormick informed Mr. Rose that the variance has been granted and that he has one year to complete the project.

Chairman McCormick opened the next public hearing by reading the following: Request of Adam Meyers for a variance of the regulations under the Zoning law to permit the construction of an 80' x 80' storage building, a 49 foot rear set-back is available is requested pursuant to Article III Section 355-12 for property owned by Thomas Ketchum, Jr. situated at 102 Prospect Terrace, Altamont, NY 12009. Tax Map Number 37.18-1-13 and zoned CBD. Plans were open to the public during normal business hours for inspection. The said hearing will take place tonight at Village Hall.

The Board acknowledged letter from Mr. Ketchum stating he was aware of the proposed use of his property.

Mr. Mark Jacobson, representing Sally and Tom Ketchum and their son-in-law Adam Meyers, reviewed the application and drawings with the Board. He pointed out the drawings included the old building which burned down two years ago and the new proposed building. He stated that the Ketchums and Mr. Meyers would like to rejuvenate the property and put something back on the property, specifically a commercial parking facility, enclosing the building. Possibly a Morton building, not sure what they are considering at this time. Mr. Meyers stated the building will be similar to the picture he had provided the board prior to the meeting. Mr. Jacobson stated that Village Code requires a 50 foot rear yard set-back from the property line. He stated Agway is to the north, Sunoco to the south, the rail road tracks to the east and Prospect Terrace along the front of the property. He stated that the old building took up much of the footprint of that set-back. The total parcel is about 4/10ths of an acre, 17,000 to 18,000 square feet and the old building took up about 10,000 square feet. The Ketchums and Mr. Meyers are proposing an 80' x 80' building, maybe an 85' x 85' building for waste, office, etc. They are looking for relieve from the rear yard set-back by the rail road tracks. They would like to have an enclosed storage for cars, vintage cars, RV's, and that sort of thing. Mr. Jacobson pointed out that there would be three access doors on the right side of the building. He stated there would be two 12 foot doors and one 13 foot door to allow for bigger vehicles to go in. He also stated there would be a small office in the front.

Mr. Meyers stated there would be no full time employees. Mr. Jacobson stated that the Village Code requires some windows on the building wall which would be along Prospect Terrace. Mr. Jacobson stated that there would be windows but they would be placed high enough so people would not be able to see in the building. This is to provide security but also make the building look nice. He would like to offer short and long term parking. He stated many residents have campers and boats and Village Code limits where they can be parked on individual properties. This provides an option for residents. The system would be computerized and people would get a ticket, park and then when they pick up camper, car or boat, pay the fee with credit or debit card.

The Board clarified the doors would be facing the back of Sunoco.

The Board questioned where a commercial parking structure is allowed in our Village Code. The Board stated that they understood that the applicant was here for an area variance, not a use variance. The Board would like to see the lot be something nice and useful and thinks the residents on Prospect would also like to see the same thing. The Board feels that they need to know if the use is even allowed before moving forward and discussing the variance. The Board states that Village Code speaks only to commercial parking lots, not to parking structures. Mr. Moore stated that the Village Code does allow for commercial parking lots. He went on to say that the Village Code does not specify enclosed or not when referring to commercial parking lot. Mr. Moore went on to say it is up to this Board to determine whether it can or cannot be enclosed. He felt the definition was ambiguous.

Mr. Meyers states that he could park vehicles on the existing pad that is on the property. That is a use that is allowed, but he thought it would look nicer if the vehicles were inside a building, rather than just out in plain view. He thought that people would be upset if used as allowed. Wants to make it as less intrusive to everybody. Also was hoping to improve the drainage, which is actually the Village's responsibility.

Mr. Meyers stated that by placing building on property with off street access will help fix the drainage issues along Prospect Terrace. The paved access area will also help get gas delivery trucks off the street. He felt that this would be good for residents and Sunoco as far as safety was concern.

The Board stated that they agreed it would be an attractive building. They even stated that the application and presentation is one of the best they have ever seen. Their issue is the definition of a commercial parking lot – An off-street, ground level open area, usually improved, for the temporary storage of motor vehicles and operated for profit. They got the profit part and the storage of vehicles part, but not the open area. The Board did not find that ambiguous.

A resident stated she could not hear what the Board was discussing. The Board stated that the meeting was open to the public and they will speak up.

The Board acknowledged 18 neighbor notifications were sent out. They asked if anyone in the room would like to comment on the proposed action.

Mrs. Bridget Scally, 111 Prospect Terrace, states that the application fails to note, she doesn't do north south, west or east but to her the street is in the front, Agway to the left and the rail road tracks in the back, but nowhere does it say that directly across the street is the beginning of the residential district and that most of Prospect Terrace is a residential district. She has Agway directly across the street from her, so she knows what is like to have a business as a neighbor and is a good neighbor, but she had serious concern about using this building as a parking lot, how many cars would be parked outside the building, how close to Prospect Terrace would this building be. The previous building was already abandon, there were no businesses there. She told the Board that the customers who come from Agway, come zipping in and out of the parking lot, and they think that when she is going home, they think she is going to Agway and they cut her off constantly. If the Board allows traffic to come in and out of this property, it will make it even more unsafe. There are pets in this area, we have children in this area. There is traffic coming down the hill, they zip down the hill. Then you want to add people coming in and out of this parking lot pulling onto Main Street. This is a dangerous intersection. This is already difficult. School mornings are difficult. She understands something has to be done with this property. When she read the code, she did not see a parking facility to be a useful use. She did not know if it was appropriately defined, but did not think it was in keeping what our Central Business District is. These are shops, specialty shops, these are places where people from the village can go and get goods and services whether it is down Main Street or Agway for pet supplies, whether it's a pizzeria on the corner. She does not see how people need to store RV's, campers and antique cars when they are already doing that over at the fairgrounds. She doesn't see how this adds to the Central Business District. She then thanked the Board.

The Board asked if she lived across from Agway in the little house. Mrs. Scally stated no. She stated she lived in the historic house, that there was a two family next to her and then the little house.

Daniel Dymes, Agway, 106 Prospect Terrace, stated that directly across from the Scally home is zoned Central Business District and that where that little house is where the boundary line starts for the Central Business District on that side of the road. He stated that when Mrs. Scally said it was directly

across from the Residential District, it is not. There is a white barn. It is owned by Tom and Sally and it is in the commercial district. The proposal is not anywhere directly across from the residential district.

Mr. Meyers addressed the issue about traffic. He stated that people who store cars in there, or boats and campers, it is a problem in the village. He stated that even in his neighborhood, people park their vehicles on the street. It is a pain. With this proposal, you won't have people coming and going all the time. A car could be parked in here for 5 months, then they pull it out and off they go. He is proposing to work with Sunoco and their gas delivery truck by allowing to pull off the road on Prospect Terrace, the truck would no longer have to back up across Main Street. At the current time, there is a Jersey barrier because the Gas delivery trucks would drive through and broke the drain. When it rains now, it floods. That drain was put in by the Village by Dan Jensen after the major flood. The Village has never repaired the drain. Mr. Meyers states that as part of this project, they will fix the drain. Mr. Meyers pointed out that there would be no increase of traffic past their business, so the area Mrs. Scally is concerned about will not see any increase in traffic. He stated that he understood her concerns about her children and that he would consider set hours for access but if people have an issue about parking, they would have a place to go. He went on to say, part of the reason he is presenting this proposal is that he would like to make it look nice on that property. He stated his in-laws are 78 and 80 years old and they do not want to start another business and it took a lot to convince them to do this. They spent and loss a lot of money. It cost them \$ 25,000 to remove the old building and they did it within a weekend to make the Village happy. They lost a lot when they lost the contents of the building when it burnt. There were thousands of dollars' worth of property inside building. Mr. Meyers stated he lost personal property.

Mr. Jacobson stated that a person can drive through the village and see all the campers parked in driveways when people bring them home for the week. Then the Village tries to enforce the zoning. So they need someplace to put their camper for the week. But the majority of this will be vintage cars. He explained that Altamont Fair has storage. What Mr. Meyers is proposing is a little different. He is not sure what the Altamont Fair Special Permit covers but people can only park on certain days and pick up vehicles on certain days. Mr. Meyer's proposal allows for people to come any day to drop off and pick up. There is a lot of people who want to work on their vehicles, they can't do it at storage but they can pick it up, work on it and return it anytime.

Chairman McCormick stated that this cannot be resolved at this time. Mr. Meyers states that an open commercial parking lot is allowed on that lot and he could actually put one in and enclose it with a chain link fence. He would like to move forward with the enclosed commercial parking lot. He wants to make it a nice place. He wants to make it look presentable. He wants it to look like the Agway. It would blend right in with the color scheme he was looking at. He is hoping to get to that point so all that would take place. He stated that he was going to ask for a further setback in the front to put in shrubs and some lighting. He was presenting the overall plan. He wanted it to look really nice. He pointed out that there were no houses across from this property and that there would not be a ton of traffic coming in and out.

Mr. Jacobson stated he wanted to clarify something stated by Mr. Meyer. Mr. Jacobson stated that the Village Code is a little different than most municipalities he has dealt with. He stated that the front yard setback is a maximum of ten feet on that street and the proposed building is set back as far as allowed

by Village Code. They would like to install some sort of sidewalk and plantings in front of the building. He stated if it was the desire of the Board that the building be further back on the property, that they would be happy to accommodate the Board. But also with the understanding that if the building were pushed back from Prospect Terrace, they would be seeking a greater variance in the back of the property. Mr. Jacobson feels that it would be good planning, allowing for more landscaping along Prospect Terrace. He stated that the Village Code kind of ties their hands a little bit.

The Board inquired about drainage. Mr. Jacobson stated that the parking lot between the proposed building and Sunoco would be built to drain the runoff into the storm water system. Mr. Meyers would be repairing the drainage which is really the responsibility of the Village but has gone unrepaired for a long time.

The Board reviewed how the proposed building would line up with Agway. It was determined that one of the Agway Buildings backs up right to the rail road property. The proposed building is substantially further from the rail road property. Mr. Dymes stated that Agway purchased land from the rail road, so that is why his building is set so far back. The previous owners of Agway obtained a variance required when rebuilding after Agway suffered a major fire.

The Board inquired if the rail road company had any input on the proposed construction on the property. They were informed that the rail road company saw no issues with the project.

Dick Howie, 149 Prospect Terrace, stated he lived in the last house on the street that his residence was not even close to Ketchum's property. He said that pulling in and out of Prospect Terrace is a nightmare. He asked for clarification – will there be nothing coming in directly off Prospect Terrace.

Mr. Meyers stated that the vehicles will be turning on to Prospect Terrace but then entering the building from the side behind Sunoco and then go through the garage doors.

Mr. Howie inquired if there will be any garage doors facing Prospect. Mr. Meyers stated there would not. Mr. Howie stated that they did not need any more traffic on Prospect, there was already too much. He went on to say that there are already trucks coming to Agway, he did not want to see any more. He also was concerned about who would be maintaining this property. Mr. Meyers stated that Mr. Ketchum and Mr. Meyer would be maintaining the property. Mr. Howie stated that Mr. Ketchum has a bad reputation when it comes to maintaining that property. He stated that the last building on the property looked terrible. Mr. Meyers stated that Mr. Ketchum came before the Village 10 or 12 years ago and proposed a plan to remove and build a new building and that was turned down. Mr. Meyers said that although the last building looked bad, the inside of the last building structure-wise was very sound. He went on to say that the inside area near the road was just remodeled for the pizza place which is now located at the corner because the building burned down before they could open up for business. The current location of the pizza place was going to be another meat market, but since the Ketchum's promised to rent to the pizza owner, they allowed him to take the corner building to operate his business. Mr. Meyers stated that a lot of money was spent to clean up lot after building burned down, and because of a major fire at the Ketchum's home shortly after the Prospect fire, precedent for cleaning and rebuilding went to their home. Mr. Meyers said he is just finished up with the last few

things on their home a couple of months ago and now they are looking to doing something with the Prospect Terrace lot. The Ketchum's are willing to start a whole other business venue with Mr. Meyers. Mr. Meyers stated again that the Ketchum's did come before the village with a plan for a nice building but the Village turned them down. He stated that the Ketchum's were told at the time to consider putting in a bar, a retail store or something of that nature on the property. The Ketchum's felt that the Village did not need another bar, retail store or anything of that nature at that time.

The Board informed Mr. Meyers that the Ketchum's were not actually turned down. The Ketchum's were informed that what they were seeking was not a permitted use and they were given instructions on how to proceed from that point on. The Ketchum's did not pursue the matter.

Mr. Meyers stated that the letter he read stated that they were denied. There was some discussion and it was determined that approval wasn't granted. Mr. Meyers stated that if the board looked at the work that was done on the Ketchum's home, they would realize how nice it looks and he was planning on doing the same type of construction on Prospect.

Mrs. Scally stated that she moved into the area 10 years ago and felt that the reason the Board had an issue with the Ketchum's variance request 10 years ago was that the Ketchum's could not establish a need for a storage facility and it was not allowed under the zoning ordinance then and even today. She doesn't feel that they met the burden tonight either. If they were going to rent out space to a butcher and a pizzeria prior to the fire, then there is a need for those and they haven't met the burden, and that could find something else to use this property for which they would need a variance for. She went on to say that they don't seem to have a desire to enter into a new business, disqualifies them from being granted a variance.

The Board responded that they could put up a smaller building which would not require a variance. That they were here only to review the request of the rear yard set-back. Mrs. Scally stated that they could not store vehicles in the building as it was not an allowed use.

Dean Whalen stated that it is not a permitted use. The application submitted in his opinion stated a storage building and it is not allowed in the commercial district.

The Board felt that this could not be resolved. Mr. Meyers stated he submitted his paperwork to state commercial parking, he said he never represented it to say storage building. He went on to say that going back 10 years ago, after senior housing was built, two storage buildings was put up in Guilderland Center and on Route 20. He said that they have all filled and there is a need for people to park their vintage cars, antique cars and mobile homes in a secure area for the winter so they don't get rusted. He stated there is a huge need for it. Mr. Meyers went on to say that he gets asked all the time from other businesses. He did state he can pull his application and just put up a building.

Mr. Whalen stated that storage was not added to the central business district when the zoning was updated purposely. He stated that they did not feel that storage belonged in the central business district. He said that the application 10 years ago was not granted because they could not prove it was the only business that would be viable at the location at that time. He stated that this is not a

commercial parking lot. He also stated that an application for a use variance should have come before this board rather than an area variance.

John Scally, 111 Prospect Terrace. stated he sent an email and asked if the Board got it. The Board stated that they did receive the email. Mr. Scally stated that after reviewing the plans, he noted that the building was constructed of metal and that metal buildings were not allowed in the village. The usage is also not permitted in our code, storage is not allowed in the Central Business District. He felt bad about what happened to the property and realizes several things were lost in the fire. He did say there was still a lot of debris along the site, was this something this board would deal with?

The Board advised Mr. Scally that the debris issue was something he would have to discuss with Lance Moore, the village Code Officer.

The Board asked if there were any other comments from the public. There were none. The Board stated that if they were actually talking about building, they would have some questions, but since they are unsure whether it is even allowed or a permitted use, there was nothing to discuss at this time. The Board wanted a definite definition of the words Commercial Parking and Storage before proceeding. It was agreed that the Chairman would speak with the Village Attorney regarding the definitions. The Board stated that the application referred to the use as storage, not as parking. The Board did not close the public hearing at this time.

Mr. Jacobson asked if there were any other materials needed for the next meeting from Mr. Meyers and asked if they would automatically be put on the next meeting's agenda. They were informed that they would and they would also be notified if something changes and it had to be moved further out.

Chairman McCormick made a motion to table the public hearing until next regular meeting. Board member Ramirez seconded the motion. All in favor.

The Board asked if that would require public notice.

Board member Provencher asked about whether the outstanding code violations were discussed at last meeting and were they resolved yet.

Board member Ramirez made a motion to approve the minutes of August 8, 2017. Chairman McCormick seconded the motion. Board member Provencher abstained. Board member Swart abstained. Chairman McCormick – in favor, Board member Huber – in favor, Board member Ramirez – in favor.

Board member Provencher made a motion to approve the minutes of December 12, 2017. Board member Ramirez seconded the motion. Chairman McCormick – in favor, Board member Provencher – in favor, Board member Huber – in favor, Board member Ramirez – in favor. Board member Swart – abstain.



It was determined that there were no actions taken in February 2018, that the meeting was an informal meet and greet with Lance Moore, the new Building and Code Officer.

Board member Provencher asked if the outstanding code violations were discussed in February with Lance Moore and have they been resolved. The Board asked about the Ganance property. Mr. Moore stated that the owners were going to try to plant inside the fence, due to the fact that nothing survives outside the fence. The Board suggested she should plant pine trees. The Board feels that this needs to be done. Mr. Moore states that the previous owners and the new owners have spent thousands of dollars trying to grow there and nothing survives. The Board stated that they did not believe it. That other homes along other streets have shrubs in their front yards that are doing fine. It was pointed out that many of the streets mentioned are Village streets, not the main road. It was pointed out that Mr. Moore is dealing with a number of code violations and he will continue to pursue enforcement.

Board member Provencher made a motion to adjourn the meeting at 8:55 pm. Board member Huber seconded the motion. All in favor.

Respectfully Submitted,

Kelly Best