

Village of Altamont Zoning Board of Appeals  
Regular Meeting  
April 9, 2019

Maurice McCormick, Chairman  
Danny Ramirez, Member  
Isaiah Swart, Member  
Kathryn Provencher, Member  
Tresa Matulewicz, Member  
Sal Tassone, Alt. Member, Absent

Lance Moore, Building Inspector/Code Enforcer  
Dean Whalen, Board Liaison  
John Hartzell, Village Attorney  
Jeff Moller, Supt. of Public Works

Chairman McCormick opened the meeting at 7:05 p.m. He noted where the exits were. He introduced himself and all the members of the Board as follows: Maurice McCormick, Chairman of the Zoning Board; Members of the Zoning Board: Tresa Matulewicz, Danny Ramirez, Isaiah Swart, Kate Provencher; Dean Whalen, Board Liaison; and Village Attorney, John Hartzell.

Chairman McCormick said that he wanted to “mention, particularly one of our Zoning Board Members that's no longer with us, Mr. John Huber. He sat here to the left of me for 19 years, and passed away suddenly late last year. And I would just like to acknowledge that - his service, certainly the time he gave up with his family. I think he's got five kids and he was a great guy to have here. Like I said, he was here for 19 years; he volunteered to do that. I just wanted to mention that and let his family know it was very much appreciated and he will certainly be missed - his input. Thank you.”

Chairman McCormick mentioned that Danny has been here for 13 years volunteering on the Zoning Board, which he thinks is great. Kate Provencher has a little over 20 years just a couple of days ago. This is Tresa's first meeting, a pretty big meeting for your first time around and Isaiah's third or fourth meeting. Welcome and thank you. He stated he has been on the Board a little over 20 years and with John passing and everything, he just wanted to say that this is all voluntary, people come here and we try and do what's right for the Village and we give up our time and it's very much appreciated. Thank you.

Chairman McCormick stated that this meeting is a pre-concept hearing - Stewarts is going to come forward, explain to the Board what they're looking to do. We're going to have questions, hopefully we'll have some answers, but this is not a time for the public to comment. He suggested to the general public that if they think they're going to have questions, write them down, take notes, and pay attention to the things you might have concerns with. And then when we schedule the public meeting, that's the time when the public will be able to ask questions and we'll have a little back and forth. But right now Stewarts wants to show us where they're at and what they're thinking, and the public is here to take a look at it too. So everybody has a clear picture of what's really going on rather than listening to maybe the neighbor or somebody that might think they know what's going on.

Chairman McCormick stated that he was going to read the five criteria that the zoning board looks at: (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance

(2) Whether the benefits sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance

(3) Whether the requested area variance is substantial

(4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district

(5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.

Chairman McCormick stated those are the five things that the Board looks at when people come before us with variances and we're pretty conservative with a lot of our variances. He said we had a variance and a lot of people on the street were for it. We did not grant it and everybody was happy with that down the road. Maybe not at the meeting, but down the road they were seeing that it might be popular, we don't really have a concern with what our neighbor is doing, but that really was something they did not need to do. And then the Board did another variance where there was an issue with the survey - it wasn't done and the people got a little too close to the property line and they wanted to put up some siding or something. We ended up restricting them to a 2 inch variance because of various different things and that's all they needed when we looked at it and we told them different ways they could do things. So that's just a couple of things that the Board has done.

Chairman McCormick mentioned that Board Member Provencher was on the comprehensive plan in 2007. (She said it took a while before 2007 - probably well over a year.) So she's very familiar with the comprehensive plan for the village of Altamont. He asked if the board members had anything else they would like to bring up at this time? None of the members did, so Chairman McCormick said we'll go right to Stewarts and Stewarts can lay this out.

Chuck Marshall from Stewarts introduced himself and stated that he had appeared a number of times, originally in 2015, which started this process with approximately a thousand square foot building addition, and then decided that a new store would be more fitting. So they tried for a zone change at the time and the vote was a two-two tie, and then with the 2018 vote, they decided to seek the variances for a new store along with the site plan. He said that one of the reasons they're here is because there was some uncertainty whether a public hearing could be set without the Board's setting the public hearing. They're hoping the Board will set the public hearing for the next meeting because they think it's advantageous to get the public's input as early as possible in the project. He stated that's one of the reasons they sent the interpretations that they sought to the neighbors, as the code indicates abutting neighbors within a hundred feet should be notified of any variances that are going to be sought. He stated they went to the January Planning Board meeting and it was determined at that point that they can't do this project without variances, so it would be best to identify what those variances are going to be and then seek them. They sent a request to Lance, the Village's Code Enforcement Officer via the February 27th meeting. He said Lance responded on March 20th, and deferred interpretation on the Village's sign code to the Village Attorney, Nolan, Heller and Kaufman, who on March 26th submitted their interpretation for the sign code to Stewarts. He said on March 29th, they submitted a formal application for the variances. He stated the material that they submitted is the application for relief; the formal interpretations or the request for formal interpretation from Lance; the responses from Lance and the Village Attorney; the balancing test, which are the five criteria that Chairman

McCormick identified that they use to evaluate each and then long form SEQRA. The SEQRA element is one that he said he thinks is going to need some addressing. He said that as previously indicated, there are actions that don't require SEQRA review and that this would fall under in most instances; so there will be some consideration for that. He said that now with that said, he wanted to show the Board and then the public what the variances are and then answer any questions that they may have.

Mr. Marshall stated that one of the things that's unique for the Village of Altamont code is a section of the code 355 31B that says that accessory structures in non-residential zones are held to the same setback requirements as principal structures. He stated what that means is that in the instance of a convenience store with gas, which are both permitted uses in the central business district, you have two buildings that constantly compete for the same space. So if you think about the front - you also have two fronts, as the code indicates that a front occurs on both streets on a corner property. In the formal interpretation they requested from the Code Enforcement Officer, it was determined that the side yard was the yard to 111 Helderberg Ave., and the rear yard was to the creek. He stated that is because there are elements of the Village code that point to larger rear yards for loading and parking. He then offered to give the Board smaller copies of the documents they were looking at. Chairman McCormick asked if they were the same thing he had posted. Mr. Marshall said that's the current plan, that's essentially the survey.

Mr. Marshall drew an outline of structures with marker on the chart and pointed out where the existing Stewarts, gas canopy and the house at 109 Helderberg are.

The Board and Mr. Marshall held a lengthy, detailed discussion regarding the variances Stewarts is seeking. At the end of the discussion, Chairman McCormick asked Mr. Marshall to review the variances.

Mr. Marshall listed the 6 variances as follows:

- 2 variances relating to the gasoline canopy are the front, from Helderberg, which measures 28 feet, needing 18 feet of relief; and the front from Altamont, which is 27 feet, needing 17 feet of relief. Both of those are 10 foot maximums
- (He's checking with Lance on this one - might be 2 variances) the setback from a freestanding sign to the property line. They show 2.5 feet on each property line where five feet is required
- (This one he claims only exists on paper) - The maximum width of 80 feet in the CBD. They've proposed 168, so 88 feet of relief is required. As a side note, the existing width on Altamont exceeds that as well, so it's a non-conforming condition already
- The last two variances are both the variances of substantiality. They are the front yard to the building measured from Altamont, which is a 10 foot maximum. They show 99 feet, requiring 89 feet of relief and then the side yard setback, which is a 20 foot maximum to the gasoline canopy. They have that at 130 feet requiring 110 feet of relief. He stated that on other side of the plan, they're color coded to show the relief with where they are.

Chairman McCormick then asked Mr. Marshall to go over the questions/concerns the Board had of Stewarts that he's going to bring back answers for the next time.

Mr. Marshall said Stewarts would:

- amend the plan to show the height of the building and the depth of the porch

- provide a ratio of the store volume to storage or the retail to the business. That will be from the cooler to the counter and then that interior area, and then anything outside will be measured as business
- change the photometric plan to show at least the gooseneck lighting around a freestanding sign
- add the vinyl fence enclosures around the mechanical equipment
- provide decibel readings or manufacture a cut sheet for the decibel equivalent
- double check the luminaire schedule to determine what is back shielded and what is not, and make sure that the schedule matches the plan
- show some stores of similar size and their number of parking spaces
- check the flow rate for high flow and regular diesel to ensure that they're not trying to do truck stop filling diesel here
- in accordance with section 354 24 D1, attempt to move the building to achieve the 20 foot buffer
- switch the hedge maples or red maples for spruces
- install a bike rack
- check the number of man hours and the anticipated increase, and the offerings
- pull the facility report from the DC to check if the tanks are bigger
- spec out the height of the building to the roof line and to the top of the cupola (will be on the cover sheet, not the site plan – T1)
- add the heights for the building and the gasoline canopy

Chairman McCormick asked Mr. Marshall if he would have answers for all those questions/concerns and Mr. Marshall agreed.

Chairman McCormick made a motion to schedule the Public Hearing for May 14, 2019. Board Member Ramirez seconded the motion. All in favor.

Board Member Swart asked what the agenda / goal would be for the Public Hearing. Chairman McCormick said it would be everything done at this meeting, and allow the public to comment. Stewarts will bring back answers to all these questions, and the Board may have more questions. It was confirmed that the questions / need for interpretations that Stewarts had were addressed by the Village Attorney and they became the basis for the relief they are seeking.

Chairman McCormick thanked everyone for coming out, for being very polite and listening, for being professional. The Board appreciates it.

After a brief period to let the public leave, Board Member Ramirez made a motion to approve the minutes from the October 9, 2018 Zoning Board Meeting. Seconded by Board Member Provencher. All in favor.

Board Member Ramirez made a motion to approve the minutes from the November 13, 2018 meeting. Seconded by Board Member Swart. Board Member Provencher abstained as she was absent; all rest in favor.

Chairman McCormick asked if there was any other business. Board Member Provencher asked what has happened with the violations that the Board has been concerned about and have those been resolved, like the shrubbery in front of the fences. She has a concern about letting that fall by the wayside. She

just checked with Lance and he said he was on the way home and she said they could save the questions for next time. It was suggested that she send Lance an e-mail. To follow up and if no action occurred, perhaps involving the attorney. See the last paragraph in the minutes for October; that's when the Board discussed it. The Village Attorney will be present at the next meeting.

Board Liaison Whalen asked a question of clarification for the next meeting: is the Zoning Board looking for the plans to be updated based on their questions as appropriate that Mr. Marshall can change, or is he going to represent what he researched during the beginning of the public hearing? Chairman McCormick said he thinks it's going to be both - he's going to do some research - and what did Board Liaison Whalen mean by updating plans?

Board Liaison Whalen explained that there were things that were incorrect, minor – but does the Board expect to have those cleaned up prior to the public hearing, or is Mr. Marshall just going to come to the table saying we looked into the chart and it was wrong. Board Liaison Whalen's concern is that if Mr. Marshall is going to make changes, that needs to get out both to the Zoning Board and be available to the public prior to that meeting as opposed to him just saying, I'm going to change this, I'm going to change that and we expected this to be 20 feet because that's what they require as a buffer. Board Member Provencher said when there's a variance request, the Board wants a plan that shows it because you want to have something that you can refer back to. So if they're going to put in a 20 foot buffer, that's another seven feet, the Board has to have a plan that shows us that. Board Liaison Whalen said if that's the case to make sure Mr. Marshall is aware of that so he can do that in a timely manner.

Board Member Swart said his understanding was that those were going to be Mr. Marshall's "to dos" in advance of the next public meeting. Board Liaison Whalen said what he believes is that, unlike with the Planning Board concept meeting process, they have submitted the application to the Zoning Board of Appeals with that set of plans that he represented tonight. Normally with the Planning Board meeting, you'd sit down with a concept hearing and go through exactly what they went through tonight and then they go away, fix what they feel needs to be fixed to represent it as clearly as hopefully what you're looking for as possible. Then submit the application. That's not the case. What is currently on record in the application is what he presented here tonight, not what he may change. Board Liaison Whalen just wants to make sure that sequentially we don't have an issue here, and he doesn't have the answer on this, but he doesn't want Mr. Marshall to come to the table and make a lot of changes that are not really technically in the application.

Board Member Provencher asked if since the application hasn't been advertised yet, does that give him a chance to change it? Board Liaison Whalen said not the Public Hearing. Mr. Marshall has actually sent an application and technically that application is a legal document that has that set of plans attached, which is different than in the Planning Board. When you come from a concept hearing in a Planning Board, it's just a discussion. Board Liaison Whalen said the reason he is asking is not so much if that's the way to go, but just to make sure there's enough time left to get documents available for the public because we're getting a lot of pressure for transparency on this and ECS. He doesn't want the public to be able to come back and say, wait a minute, this is completely bogus, we didn't even have an opportunity to see this. These are a bunch of changes from what were represented the last time this was presented. Board Member Provencher said that would be a good point if they came back and said that things got changed and they weren't able to look at it. That would be a problem. Board Member

Swart said that some of those changes are of benefit to Stewarts to do - they all seem totally reasonable and actually beneficial.

Board Liaison Whalen said Mr. Marshall may be completely on board and make all the changes he can make based on what the Zoning Board asked about that the Board feels are inappropriate, and resubmit. He just wanted to make sure that that's what the sequence is. Board Member Provencher said she appreciated him bringing that up because she thinks the one thing is that if they're going to change and have a 20 foot buffer, then the Board needs to see how that shows up on the plans, and that might change some of the variances he's asking for. Board Liaison Whalen said if Stewarts did that, it would definitely change the dimensions of the variances; not, unless the plan changes drastically, the actual variance - just the amounts of each.

It was decided that Lance would check with the Village Attorney on the best way to handle this.

Chairman McCormick made a motion to adjourn the meeting at 9:20 p.m. Board Member Provencher seconded the motion. All in favor.

Respectfully submitted,

Ginger Hannah