



Zoning Board of Appeals
June 9, 2015
Regular Meeting

Present:

Maurice McCormick, Chairman
Kate Provencher
Danny Ramirez
Michael LaMountain
Stuart Linendoll

Kelly Best, Secretary
Jason Shaw, Attorney
Troy Miller
Dean Whalen, Village Liaison
Glenn Hebert, Building Inspector/Zoning Admin.
12 Citizens

Absent:

John Huber

The Chairman opened the meeting at 7 pm.

The Board decided to review the minutes from October 2014 and May 2015 after the public hearing.

The Chairman read the following legal notice:

Please take notice that at 7 pm on June 9, 2015, the Village of Altamont Zoning Board of Appeals will hold a public hearing on a request by the Village Code Enforcement Officer for an interpretation of the Zoning Law which asks the ZBA to determine whether condominium Elderly House as defined in section 355-5 of the Zoning Law is allowed as a special permit use in the R-10 Zoning District, in this instance specifically at 127 Main Street. The documents on which the interpretation request was made are on file with the Zoning Board of Appeal secretary and are available for inspection by the public. Dated May 14, 2015.

The Chairman reviewed the list of neighbor notifications and noted that 18 notifications were sent. The Chairman read the letter sent with the notifications. Letter is part of official file.

Robert Rabbin of 137 Main Street stated that he did not receive a notification. He stated that he was within 500 feet of the property.

The Chairman asked if the Village Hall had received any comments. Kelly Best stated that nothing was received by mail or by telephone. A few residents did stop in to review any paper work.

The Chairman clarified that the meeting is to interpret the law only and will not entertain any issues with projects planned for 127 Main Street.

The Board reviewed with the public that this meeting was to interpret the law relating to whether Elderly Housing was permitted in an R-10 zone and not a specific project. The Board stated that no

specific project has been presented to the building department at this time. This meeting is about whether a use is permitted not a building.

Mr. Shaw stated that the notice would lead people to believe that there is a specific project planned for this site.

Mr. Shaw stated that the Zoning Board was asked to interpret the Zoning Code. He stated that he expected the Zoning Administration to put in writing the reasoning behind why he is asking the Zoning Board to make an interpretation. He stated that he indicated what he thought should have been provided by the Zoning Administrator in a memo to the Chairman. He stated that the request should have been made in a more formal manner. Mr. Shaw thought that Mr. Hebert would be at the meeting and that the intent of the meeting was to decide if elderly housing was allowed in an R-10 zone. Mr. Hebert was not present at the moment. Mr. Shaw stated that there is a potential owner of this property who might want to do a specific project but is not sure if project is allowed by Village Law because law is vague. Potential owner approaches Zoning Administrator whether this project is allowed, with or without a special permit. The Zoning Administrator also felt law was unclear and submitted the question to the ZBA.

Board member Ramirez stated that he thought that the Zoning Board could only hear issues of appeal. He presented a document to the other members of the board which addressed the role of the Zoning Board.

The Board again stated that it would have been helpful to understand the Zoning Administrator's thought process. Some of the Board members thought that the Zoning Administrator stated that there was a decision made but the Zoning Administrator wanted the ZBA's input. Other members felt that the Zoning Administrator was unable to make a decision because of the vagueness of the law.

Mr. Shaw then read the Zoning Board of Appeals section relating to their authoring under the Village Code which states that the Zoning Officer can ask the Zoning Board for an interpretation of any part of Zoning Law.

Board member Provencher stated she wanted more background information on how this issue came to the Zoning Administrator attention. Mr. Shaw stated that Mr. Hebert referenced in his email "no joint services" under the definitions listed in the Village Code which Mr. Hebert said would exclude it from the law. Mr. Shaw stated he did not agree with it. But that was only one of the issues with the clarification of the Zoning Law.

Mr. Shaw stated that he is a little concerned about moving forward because he only had the email to the ZBA Chairman which did not have any background information on what brought this to the ZBA.

Chairman McCormick stated that the Zoning Law was really vague regarding this issue. Mr. Shaw agreed and stated that Mr. Hebert was right in asking the Zoning Board for an interpretation. Chairman

McCormick agreed. Mr. Shaw stated that the legal probably should not have been property specific, and doesn't really matter how it got to ZBA but that the interpretation is definitely an issue worth resolving because of its vagueness. It was determined that the Board can move forward with this.

Chairman McCormick wanted to have the Board review the R-10 Use Schedule. Mr. Shaw pointed out that R-10 District under the Zoning Law Use Schedule permits a single family detached home. It does not permit two-family, multiple family, or townhouses. The Code does allow Elderly Housing and Group Homes with a Special Use Permit in the R-10 District. Mr. Shaw stated that is what confused the Zoning Administrator.

Board member Provencher read the Village Code definition into the record: ELDERLY HOUSING – Multiple-family housing designed for older people or housing established and maintained in compliance with the Fair Housing Act, as amended, 42 U.S.C. Section 3601 et seq., that is designed to meet the needs of persons 55 years of age or older and for which lease stipulations for age are established. [Amended 1-5-2010 by LL 1-2010]

Mr. Shaw pointed out that the definition is an EITHER / OR situation as discussed at the May 2015 meeting.

Board member Provencher read another Village Code definition into the record: DWELLING, MULTIPLE FAMILY – A building or portion thereof designed to be used as a residence by three or more families and containing three or more dwelling units on one plot but which may have joint services or joint on one plot but which may have joint services or joint facilities, or both. "Multiple-family dwelling" is a structural definition and applies irrespective of how the individual dwelling units therein are offered for sale (condominium) or rental. Also known as a "multiple dwelling" and includes apartment house and townhouse developments. [Amended 1-5-2010 by LL 1-2010]

Chairman McCormick opened up the meeting for public comment.

Dorothy Armstrong, 119 Park Street, stated she has been a resident for 8 years of the present small condominium by the post office here in Altamont. It was a blessing. She had lived since 1949 in a family dwelling over by the apple orchard. That she is alone at this point, her husband had passed away and children gone. She did not want to take care of 3 acres of land. When the condos came up and there was a showing, she went to see them and felt it was the best decision she ever made. It was the perfect setting for her, she had no car, and she is not able to drive and to be in the middle of the village, right across from the post office and within walking distance of Stewarts, the library, the enterprise and friends.

She would like to say this is good for a person of her age and expenses, she is on Social Security. She stated that the condo she is in is perfect. A simple design, plain – no frill fall. It is built for state standards for the elderly, there is an elevator from the first floor to the second and she can't say enough for a person her age who likes to live in a small town. Like she said she had been here for almost a hundred years, but that was just a joke but almost. She would like to recommend Troy Miller if he built

one similar to this which is good and when he has built other places they are appropriate for that setting, but if I think I were a neighbor I would think that is something new and we know people to not like new things but this is a great thing for elderly people and he is a great architect. Amen and thank you for letting me speak my peace.

The Chairman told Mrs. Armstrong if she forgot anything to write it down and get it in and the Secretary will get it to the board.

Robert Rabbin, 137 Main Street, stated that he was glad this was put to R-10, that the commercial was Ron's and that was the edge of the village at that time and it was included in the historic district because it was what was there in 1940. No other houses past that, if you think about it, all these homes are newer in the edge of the village. Now it is surrounded by other R-10 properties.

The Chairman stated that there were some on Schoharie Plank that were not R-10. Mr. Rabbin stated that he meant in general not specific houses. He stated that he has an old house and he is in the historic district. His point is that if you may find the use valid as the law directed but you need to make sure it is not just a big box because one of the things about R-10 is the percentage of green space, unused space which is 60 % unused. That's on a typical single family home and it did not even allow for two family which I might have said would be appropriate because of the size of the lot. You know this is basically putting together properties, it is a large site if the guy wants to do this. The question that should be asked and I am not saying elderly is inappropriate if it's truly above 55 because the stuff that was built out on Brandle Road is above 55 but that's not elderly housing. It's not price like elderly housing and it is inappropriate for that site and something like that would be inappropriate on that site. It would take up most of the site. It is important that you stipulate if you are going to have a Special Permit what is basically going to look like in general. I know the specifics are done by the Planning Board, but the Planning Board doesn't actually plan, they have admitted all they do is site plan, environmental you know egress that kind of thing. They don't plan for the Village, they don't sit there and say what should be there, they look at somebody's application and they access it for what they like and don't like about it. We have the Stewarts issue, they don't plan. They said they don't plan, they want the Trustees and Village Board and you guys above them on the Zoning Board to do that planning. This is an opportunity to get it right. It is ok to put in something that might not be single family homes because that spot would take about three or four homes at the most and he wants more money for it. I get it and it is not an inappropriate use. But you have to have it conform to the site, to the site lines. When you look down the street, the setbacks, the height, two and a half stories is max. Things like that have to be treated right. What he built by the Post Office was appropriate plus the homes that are there it is basically almost the commercial district with the Post Office and everything else that is there. But you will notice, he built right to the lot line. That should not be done on that site. It is like the Bronx. You have to have it set back on all sides, parking should all be in the back, we don't need any more driveways, and so all access for cars should be on Thatcher Drive. You know these are details they will do later, but you should put it in your special permit saying if this Board allows it we stipulate this.

Chairman McCormick again told the public that this Board was here just for the interpretation and encouraged Mr. Rabbin and all the other guests to attend any Planning Board meeting that would address this property. The Chairman stated that Mr. Rabbin made some great points. The Board explained to Mr. Rabbin that all the concerns he outlined are part of the Special Use Permit and that is heard by the Planning Board. The Zoning Board told Mr. Rabbin that there are all kinds of stipulations that can be adding on to the Special Use Permit and through the site plan review.

Mr. Rabbin stated that there has to be planning for what the Village needs because we know that they did not do it for the Stewarts. The way properties are set up has to be thought about.

Glenn Hebert, Zoning Administrator/Building Inspector arrived. He stated he was at another meeting and apologizes for being late.

Richard Millard, 4 Thatcher Drive, He stated his concerns were handled. It was the definitions. He wants to hold off on things until it gets to another venue – the Planning Board because he is trying to stick with the parameters of the meeting.

Bonnie Jean Johnson, 11 Thatcher Drive, stated that she bought her house 8 years ago. She stated that she was told that sooner or later Ron's Service Station would go away but then came Extreme Auto. She doesn't want to see parking in the rear of any building there. She pointed out that there is Senior Housing available on Brandle Meadows and on Park Street. She felt that senior housing was not appropriate for this site. Seniors will not be able to walk to the town proper from this property. She thought that a maximum of 3 homes could be built on the site and she would rather see young families live there instead of something with 6 or 12 units.

Chairman McCormick stated that there were two sides to what she stated. As stated by Mrs. Armstrong, many senior citizens are selling their homes and moving into apartments.

Bonnie Jean Johnson, 11 Thatcher Drive, stated that she wasn't at last meeting so she apologizes. She stated her home is exactly behind Ron's Garage, ok, or 127 Main Street, whatever you want to call it. I will refer to it as Ron's regardless of who owns it. She stated she bought her house 8 years ago in this Village and when she bought her house she was told that Ron's garage was grandfathered in based off the aesthetics of where the Village property lines were at the time and that pretty sooner or later that was going to go away and we would hope for houses to be there. That is what I was told so I had anticipation of having houses not of a building on the property there. Then I had Extreme Auto come in and parking their trucks up against the fence line which is why I don't want parking in the back of any building there revering their engines at 2 o'clock in the morning, blaring their lights so I can wake up at 3 o'clock in the morning. She stated NO, I will not and I will be at the Planning Board if the property that goes there I don't want parking in the back because I do live there and do sleep and value my sleep. The problem as with that property, I have to agree with the gentleman. You have to look at the aesthetics of the Village, ok. It is when you come up that road, you look at the Village. I love the Village life and the fact that I can walk on the sidewalks and see the houses there. We have senior housing on Brandle

Road, whether or not it is appropriate for finances – you have senior housing at Brandle Meadows. You have senior housing on Park, it is tucked in there and close to facilities for the seniors. She stated that she did not see seniors walking from Thatcher Drive ok.

The Chairman stated that she would be surprised how much walking is done by seniors.

Ms. Johnson stated that he may be right but she is allowed her opinion. She does not see that happening. She stated her problem with this development of potentially becoming a condominium is that she does think it is appropriate for the site. She also stated that she did not think it was appropriate for instance driving up that roadway. It is not appropriate for the Village and she doesn't care how they design it with sight line, she doesn't like it. She acknowledged that it is not appropriate to address it here but she has to agree with the gentleman earlier. She stated that she doesn't think it is appropriate. I think houses are a better use to be put there than have senior housing or a condo. You could put three homes, get young people into the village – she thought that would be a better use of the property than having a special permit for senior housing. She would rather see families come in, single family housing and have it more aesthetically pleasing on that lot than having something that has 6 or 12 units in it and we have all the additional traffic coming through.

The Chairman stated that one of the things when Park Street went up, it was to bring younger people into the Village because older people wanted to get out of their houses and wanted to get away from maintenance and stuff like that. It works both ways. He understood what Ms. Johnson was saying and appreciates her comments. If there are places for people to go who don't want to keep a home, they will put their home up for sale.

Ms. Johnson said she did agree however you have Brandle Meadows. She asked how many of those are already over there. You have senior housing everywhere in this town, not just the village. You have Brandle Meadows, you have Park Street. You do not need another senior housing in this area. You need families to come in here. You are almost losing the Altamont Elementary School because you do not have enough families here with enough kids in this area. She stated she would rather see the Elementary School stay here than the seniors. Need to have families here, you have senior housing over at Brandle Meadows and she would rather see young families come in.

Kerry Dineen, 209 Maple Avenue, stated she went back when she was part of group that created the Comprehensive Plan back in 2006 or something and she found her notes when she knew she was coming here tonight, handwritten notes it was identified that and she attributes it to someone else who said it at the time, out of talking with people and the group came and gave input – Senior Housing was actually something that was needed for the Village of Altamont and we have had very little, not counting Brandle Road, although that is senior housing it is in the Town of Guilderland. It is not accessible like senior housing on Park Street. It is not the same thing and she stated she thinks there is the need and the law is very clear. She stated that she thought that is what they were here for, not for what house is going where, our zoning allows it as written with the new zoning law as of whatever date is on it, 2008 maybe. 2007, 2008 whenever it went through and was published. 2008, so you know, what

you read allows for elderly housing. She thought the process here is to work its way through with a special use permit and she stated she had confidence in the Planning Board because they have handled several of these along the way in the past years that we have to put confidence in those people to do that job during that part of the process. She also stated that from what they were reading it is allowable and she thought the public was trying to say well what about not that spot. She felt they were going down a dangerous road for the whole village. She stated that she is not going to talk about why it could be another R-10 lot down the road. She said that is why we are here, that is the whole point.

Chairman McCormick stated that you have to look at the other side. If you deny something that could be allowed under the law, it can create problems for the village.

Ms. Dineen stated that it is tricky because you worry about the school and what was going on last year. She stated that she actually works for the District and is aware of all the children they are losing over the years, Altamont is the one school that has actually been maintaining children compared to the other schools and which is an interesting fact and it should never have been talked about being closed in the first place. So she hoped that they would consider following what the relatively new zoning law does say and that is it allowable by Special Use Permit and allowing whether it be themselves to hear variances or the Planning Board for their part of it, consider design, heights, whatever, aesthetics let it go through the process.

Sally Dague, 8 Indian Maiden Pass, stated she lived in Altamont for many years, on Main Street for 18 years, and then built a home in Indian Meadows and has lived there for 27 years almost. And stated she lives alone, having to take care of this house and she would love to some kind of senior housing that she could walk in the Village. She said she is still walk and that she is 77 years old. She stated she can walk from Ron's station right up to Stewart's easily and thinks it would be a great idea. She stated she did not want to leave the village. She said they did not want to leave when they lived on Main Street so that is why they stayed here and she would love to stay here in this Village but she doesn't think there are many places where she could move to and Brandle Meadows is too far out. Felt it was an unwalkable place. Like to have sidewalks.

Rita Rosenthal, 8 Thatcher Drive, stated she had one question. Then she forgot what she was going to ask. She stated she is for senior housing but not high rise building. She wants something like the one on Park. She stated that if you have single housing she did not think it was big enough for three like some people want. Even two, it is a big lot but not that big. Not for the houses people want now a days. The house that would be there would probably be on a slab to be with the water line or whatever. If there be a cellar, so that raises up the house and that blocks off everything for you know Thatcher Drive. The way they are building the houses now are huge and usually they want huge when they have a family, she would not want to see that. Then they would have a little lot. That wouldn't be appropriate. She thinks it would be alright to have little houses but the way they are building them today they are huge. Then families with children want a big house with a lot of bathrooms and a lot of yard. She again stated that she likes senior housing but wants no parking in the back either. Would like parking out in the front.

The Chairman again encouraged everyone if this goes forward to attend the meetings.

Susan St. Amour, 100 Schoharie Plank Road West, stated when she moved here in 2003. Moved in next to Phyllis Schilling when she was there. When she moved here her husband was ill with dementia. They moved into the area to be near her daughter, she connected them with a support groups and so on. His disease progressed and he passed in 2008 but not before they had gone through difficulties. The house they bought they were lucky to get was a raised ranch with 8 steps up and 7 more steps in the other direction. His coordination deteriorated and it was something. He lived in isolation. Her husband then lost his language so he would sit and stare into space, if they visited a nursing home or assisted living he would disappear, he was in a hall with other residents and if they had been able to she would have put him there because he was very social person. She stated in thinking about it she did not want to stay where she lives permanently. She doesn't know how much longer she can but is aware of the mobility issues and other things and feels that Brandle Meadows is way too expensive and not practical for somebody who is older really, the design of the apartments by the Post Office is terrific, beautifully done and that is handy for people and those are things that she thought were important.

The Board decide to leave the Public Hearing open at this point in the meeting.

Board member Provencher wanted to know the background of how this request came about. She refer to the memo from Mr. Shaw. The memo reflected that Mr. Hebert did not think that elderly housing was permitted in the R-10 zone.

Mr. Hebert stated that was not why he sent this to the ZBA. He stated that he send this for an interpretation of the term "elderly person". There is a very gray area in the law and wished that Mr. Shaw had communicated with Mr. Hebert over this past month since the last ZBA meeting. He has heard nothing from Mr. Shaw or the ZBA. Mr. Hebert stated he is very aware and very clear that elderly housing is allowed with a special use permit in an R-10 zone. What do you mean by an elderly person? If the ZBA sent notice to Mr. Hebert that elderly person with the same as senior citizen.

Mr. Shaw did not interpret the request that way. He thought there would be some underlying issue which was the basis for his request. He noted an email from Mr. Hebert to himself and Chairman McCormick. The ZBA asked if there were any calls made by Mr. Shaw. He stated he did not make any. He stated that he did not even get a memo from Mr. Hebert relating to the request. Board member Provencher pointed out that there was an email from Mr. Shaw who quoted Mr. Hebert but it did not mention definition. There was documents from the Village Planner who weighed in on this is also been filed with the ZBA. Mr. Shaw stated that the ZBA should clarify "Elderly Housing" because the definition is done in two parts and very broad and unclear. It should be revisited by the Village Board and made more specific.

Dean Whalen, 125 Lincoln Avenue and ZBA Liaison, states that the definition is clear. He read it again and states that it states a person 55 or older.

Richard Millard, 4 Thatcher Drive, thought that this was coming up with a definition of elderly and senior. He stated that he spoke with Mr. Hebert who stated the Voorheesville had a clear definition of senior and Mr. Millard also went on line and research elderly and senior definitions. He tried to differentiate between elderly and senior and he came up with the fact that the word senior is politically correct. But he could not find any operational definition that was different. Then he went through NYS Department for Aging which defines elderly as 65 and the World Health Organization is 65 and the UN is 55 but they put a little asterisk which they include the life expectancy of all of Africa. Medicare is 65, Social Security is 66. And then there is some definitions from Human Services – young old is 62 to 74, old is 75 to 84, and old old is 85 and up and frail elderly is 85 and above if you weigh under 100 pounds. He just thought he would put those out to the board. That just clears everything up. That is what he was thinking this meeting was about. The definition in the Altamont Code is consistent with HUD housing and that is where you get the 55 and he read the Voorheesville definition – it is clear – it says – a senior citizen means a person who is 62 years of age or more or 2 persons living together, both are signatories of the lease, at least one of them is 62 years of age or more and an adult under the age of 62 but the presence is essential for the care of the partner or economical worth of the eligible senior citizen. So he felt that was really clear and really addresses the issue of younger spouses and the personal care which are two real crucial things with elderly housing. Personal care, who is going to be coming in and out.

Mr. Shaw stated that the HUD definition is only one of two definitions in the Village Code. The second definition refers to housing for older people.

The Board was concerned what the village definition of older people really meant. The Board reviewed the Density and Dimensions Schedule and noted that the Village did not address the Elderly Housing in the R-10 zone even though it is addressed in the Use Schedule and definitions are listed in the Zoning Code.

Mr. Shaw stated there is definitely a gap in the law. He stated that the Board doesn't have to make a decision at this meeting. He stated that it looks like the Village had a desire to create elderly housing but had not thought to change density and dimensions schedule and the definition of elderly housing is very vague.

The Board discussed that the density and dimensions are an important part of the planning process.

Chairman McCormick asked the board to consider carrying the matter over for a week or two. This would give them time to digest and think over all the public input and information presented at this meeting.

Some members of the board stated that they had a problem making a decision without the law addressing the issue in the Density and Dimensions Schedule. Concerned about if law will be addressed by Planning Board or Village Board.

Board member Ramirez was concerned that there was no actual appeal and if this board should even be entertaining this issue. Mr. Shaw read the Village Law which states any Village Official can ask the

Zoning Board for an Interpretation of the Village Code. Mr. Shaw suggested the board close the Public Hearing and set a date to meet again.

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

The Board decided to meet in one week on Tuesday, June 16th at 7 pm. Mr. Shaw stated that the secretary needed to post the meeting on the website since it was being carried over from this meeting.

Chairman McCormick made a motion to meet on Tuesday, June 16th at 7 pm to continue to discuss this issue. Board member Linendoll seconded the motion. All in favor.

Board member Provencher made a motion to approve the minutes of the October 14, 2014 meeting. Board member Linendoll seconded the motion. All in favor.

Mr. Hebert informed the board that he will not be available for the meeting on June 16th. The Chairman also stated that Mr. Shaw would not be needed.

Chairman McCormick made a motion to approve the minutes of the May 12, 2015 meeting. Board member LaMountain seconded the motion. All in favor.

Board member Provencher made a motion to adjourn the meeting at 8:52 pm. Board member Ramirez seconded the motion. All in favor.

Respectfully Submitted



Kelly Best