

**Board of Trustees of the Village of Walden
Joint Meeting with the Planning Board and Zoning Board of Appeals
December 3, 2013**

Mayor Maher called the regular meeting of the Village of Walden Board of Trustees to order at 6:30 pm.

On roll call the following were:

Present:

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| Mayor | Brian Maher |
| Deputy Mayor | Sue Rumbold |
| Trustees | Bernard Bowen |
| | Willie Carley |
| | Sean Hoffman |
| | Edmond Leonard |
| | Gerald Mishk |

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| Planning Board | Stan Plato, Chair |
| | Jay Wilkins |
| | Lisa Dore |
| | Brian Sebring |

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| Zoning Board | Brenda Adams, Chair |
| | Carolyn Wesenberg |
| | Rebecca Pearson |
| | Oscar Alleyne |
| | Greg Raymondo |

Absent:

John Duffy
Jason Trafton
Faith Moore

Also Present:

John Revella, Village Manager
Tara Bliss, Village Clerk
David Donovan, Village Attorney

Discussion Items

Recommendation for Next Joint (Tri-Board) Meeting

Jay Wilkins suggested that we have Tri-Board Meeting 3 times per year. Spring, Fall and Winter.

Mayor Maher stated the spring meeting is set for Tuesday, April 1, 2014 at 6:30pm.

Planning & Zoning Boards – Annual Training Certification, Records & Course Offerings

Trustee Hoffman stated that members of the Planning Board and Zoning Board are required to take 4 hours of continuing education per year. Can take classes over in Goshen and Clerk Bliss has been keeping track of everyone's requirements.

Clerk Bliss mentioned that there was one person on the Zoning Board that hasn't fulfilled the requirements, everyone else, including the alternate has fulfilled all 4 hours for the year. And there are two from the Planning Board that haven't given me a certification, but everyone else including the alternate have fulfilled the 4 hours.

Manager Revella added that they are also required to take the NIMS classes. We are tracking them down in the files to see who has them and who doesn't.

Clerk Bliss mentioned that she still needs oaths, ethics codes and disclosure forms from some of the Planning Board members.

SEQRA form changes

Trustee Hoffman explained that a number of members attended the SEQRA summit in September.

Attorney Donovan indicated that the forms are a little more cumbersome to fill out but are now the newly required forms. It gives you a lot more of the information and is great because it addresses more issues than what were addressed on the older documents. He thinks it's a step in the right direction.

Planning & Zoning Boards Minutes

Trustee Hoffman said that the minutes are moving along and Dean is working to get them online. They are pretty much caught up on previous meetings.

Stan Plato asked if we could put up the draft minutes even if they are not approved.

Attorney Donovan replied yes. Almost every Board makes it their practice to approve minutes but it is actually not required; they are supposed to be available within 14 days.

Brenda Adams asked if the Zoning minutes were up for the last year and a half or so.

Trustee Hoffman said no, but will find out what the statuses of them are.

Lisa Dore clarified that they could be put online without being approved.

Mayor Maher asked about getting a secretary.

Manager Revella stated that Nancy Lamancuso is the Secretary.

Trustee Carley asked if we can hire someone to transcribe them.

Mayor Maher explained that we had a proposal from Granicus to aide in minutes.

Trustee Carley stated that he was referring to just a one shot thing to get all the minutes up to date.

Manager Revella stated that we have someone in house that can do that already just as we did with the Board minutes.

Trustee Hoffman said he would coordinate with Dean to get Clerk Bliss the tapes to get the back minutes up to date.

Stan asked if we had to have minutes.

Attorney Donovan stated yes but they don't have to be so detailed.

Trustee Hoffman explained that the details are given to refresh their memory and to record more of what the applicant said, what the nature of the project was.

Jay Wilkins asked if the public hearings have to be detailed.

Attorney Donovan said no. A lot of Boards prefer to have those conversations to be in there but they are not required. Its information but not binding until some action is taken.

Zoning Duration Changes (Code 305.60 L1 and 305.50 F)

Trustee Hoffman explained that Brenda Adams had brought up that there was a question about whether the Zoning laws needed to be updated for the Village.

Brenda explained there were changes that might need to be addressed.

Becky Pearson gave an example of a development that was slated but never got built. Is there no duration or limit for them; what happens in 20 – 30 years? She feels there should be duration of time they have to return again not just be assumed approved.

Trustee Bowen asked if there was a statute of limitation.

Attorney Donovan replied no. He thought this was a different issue as he assumed that we had a non-conforming pre-existing code. For example, it was approved for 1 acre Zoning and now the minimum Zoning is 2 acres.

Becky said that could be part of it. Not necessarily a Zoning but a Planning issue as well. There was an approval for x amount of houses and they never built it and now we have a major sewer problem.

Stan thought the sewer should have been set aside.

Attorney Donovan explained that once the site plan application gets approved; your code has a specific life. State law doesn't, but Village code does. And once that life has exceeded, then the approval has expired. The approval wouldn't apply unless there is a change of circumstance. Subdivisions are different as you are given 3 years of vested rights. If the ZBA issues an approval there is a specific approval on that as well. Subdivisions changed 2 years ago. Used to be the State Law was 180 days plus two 90 day extensions and that was it. Now it's an infinite amount of 90 day extensions.

Becky clarified that in our code now if there has been approval for a 10 lot subdivision but they don't build for 10 years, do we have a time frame in our code that they have to come back to the Board.

Attorney Donovan stated that once a subdivision is approved it is there.

Becky questioned that if she has a piece of property and puts 20 houses on it 50 years down the road, she can because she's approved.

Attorney Donovan replied that if they have filed a plat then the answer is yes. If the applicant keeps coming to a meeting and says he is working on it then he's at risk for whatever the Board makes as far as Zoning code changes. He's totally at risk.

Trustee Bowen asked about the statute of limitations.

Manager Revella said he would have to file for extensions.

Trustee Bowen questioned if it's not completed, why does he keep asking for extensions?

Manager Revella said he's waiting for the market to be better.

Attorney Donovan explained that they post bond and file subdivision map they can get an infinite number of 90 day extensions.

Trustee Hoffman mentioned that once you file that map you are now paying taxes for those lots that were subdivided.

Becky asked what the timeframe was from the approval to the filing.

Attorney Donovan answered, 60 days. There are always caveats to everything that he does for example an applicant wanted to reopen under SEQRA which went all the way to the court of appeals and the approval still stands.

Mayor Maher asked if he thought that situation were to come up and there were legitimate issues that decision would have went a different way.

Attorney Donovan said yeah, for example, before we talked about sewer capacity.

Stan stated that the sewer capacity was first approval.

Attorney Donovan responded yes, someone could have messed up.

Mayor Maher asked if they can legislate this.

Attorney Donovan answered, no as we are bound by court decision.

Trustee Hoffman asked should we look to keep track of open applications.

Attorney Donovan said to pick a date and if it's something that hasn't come before the Board for x period of time then they have to start all over again. Not sure of application but perhaps we want to address that. Good idea if there is some sort of spreadsheet to track approvals, letters of credit, and applications etc.

Trustee Hoffman stated he thinks that Dean does keep that list. He will check in with that.

Becky stated she was talking about a development behind S. Montgomery Street. Her concern is what we can do to make sure they follow new regulations not past regulations.

Deputy Mayor Rumbold clarified that if something is approved, a municipality has to hold that sewer indefinitely.

Attorney Donovan answered, yes if it's a filed subdivision map.

Stan asked when you get final approval, can you require a bond or letter of credit posted immediately.

Attorney Donovan said that before a subdivision plat is filed, state law requires that they either build improvements or they post a surety bond or letter of credit that is a prerequisite.

Jay said let's say that they approved it in the 70s, now along comes a new subdivision now what do you do? Sewer is approved but not being used.

Deputy Mayor Rumbold said they are paying taxes on those lots but not using water/sewer and now we have a new development but we can't approve because we have to set the old one aside and potentially be turned down because of the old project that hasn't happened.

Attorney Donovan replied, yes because you have to provide capacity.

Deputy Mayor Rumbold thinks that is quite a burden to tax payers who have to foot the bill to approve the new system.

Attorney Donovan stated yes it is a huge burden.

Deputy Mayor Rumbold agrees with Becky that something should be done as this seems like a huge burden to the tax payers.

Manager Revella asked if they could use letter of credit or bond to do the improvement.

Attorney Donovan said no.

Jay asked about paying sewer tax if they are unapproved.

Manager Revella answered no.

Attorney Donovan said there is benefit assessment that they can be compelled to pay.

Stan said that he had a house in Washingtonville and paid water and sewer even though they weren't using it.

Jay stated that in Monroe, when it gets built, they pay a user tax even if not using it just to have it available to them.

Trustee Carley asked how we can move forward.

Jay asked if we could put a fee on it.

Attorney Donovan said to start with the obligation to provide the services to Village residents. Don't know where they stand in terms of capacity now.

Manager Revella asked what the obligation is once they approve the plan.

Attorney Donovan said the obligation is the need to draw the service. In theory should be planning for it but again he is not sure where we stand with water capacity.

Mayor Maher asked where we stood with water capacity.

Manager Revella said that we are capable of producing 2 million gallons a day. Average daily usage is 560,000 gallons per day. More than sufficient amount of water supply.

Jay asked if Planning/Zoning can set hours for a business when they approve a use variance.

Attorney Donovan replied no. It is common to ask for it to be done but can't just say operating from 7-7 unless there's a legitimate nexus.

Stan asked if it was part of SEQRA.

Attorney Donovan replied yes, but need really good backup to be able to justify.

Jay asked about the internally illuminated signs, HomeTown Bank still has that.

Mayor Maher stated that he would have to check with Dean.

Manager Revella explained there were 3 that were not in compliance.

Trustee Hoffman explained they could seek variance but don't know where they stand with that application.

Mayor Maher asked Dave to research for the next meeting for Becky's original question.

Trustee Bowen asked about the application timeframe.

Attorney Donovan suggested that might be something they want to consider. If someone hasn't been active in front of the Planning Board, more specifically the Zoning Board, if they haven't come back in 18 months or 2 years, pick a reasonable time that there application has could be considered abandoned.

Oscar said those are examples.

Mayor Maher asked for statistics for future discussion.

Trustee Hoffman will coordinate with Dean, Stan, and Brenda.

Zoning Modification Update

Trustee Hoffman explained these are based on the comprehensive plan and has been working with Planner to take those recommendations and turn them into revisions to our Zoning code. We will be drafting a local law and then public hearing.

Becky asked if there have been any changes from original.

Manager Revella replied, no; what was approved is still the same.

Mayor Maher said we were setting a public hearing tonight correct?

Attorney Donovan answered, yes.

Stan stated that it's important for SEQRA.

Trustee Leonard said that now they put emphasis on comp plan, gave more weight over Zoning which is going to be a legal issue for the courts to work out.

Attorney Donovan stated that the Zoning needs to be in accordance with Comp Plan. It's a matter of opinion if it has more weight.

Stan said it was almost going the other way.

Roundtable Discussion

Brenda asked about enforcement. What happens if no formal complaint is made? In other words, we do a Zoning, we deny something but the people do it anyway but it isn't public. What do we do if a senior citizen housing is approved but families are living there. What if there is no formal complaint?

Trustee Hoffman replied that we have seen issues like that recently even. Dean received a complaint from a neighbor and he investigated and the applicant was made to go through the process with fines and fees assessed to that particular person. There is a process.

Mayor Maher asked can anyone come and complain.

Trustee Hoffman answered yes, but has issues gaining access.

Becky said the inspections are every 2 years.

Trustee Hoffman confirmed.

Mayor Maher suggested to just bring it to Dean's attention and anything that is within the law, he will be able to enforce.

Brenda asked if he has any teeth to go if there is no complaint. Does he need evidence?

Manager Revella said that he is required to do an annual inspection to those types of facilities, but if they don't let him in, then he has to go to the courts.

Trustee Hoffman said in some instances he gets access and then goes in and then brings the issues to the Board of Trustees. It's more complicated than just a complaint.

Mayor Maher said to take it issue by issue and if anything specific is going on, bring it to Dean's attention.

Brenda said the Planning Board has an Architectural Review Board. Zona Rosa, has a paint issue, and they had to change the colors. They painted it one color but not the other. What can be done?

Mayor Maher believes they did paint the correct colors.

Manager Revella said he did comply but the darker colors showed through it.

Brenda stated that a few applicants have asked why they have to go through the process if Zona Rosa has the wrong colors on their building.

Trustee Carley asked if they are the appropriate paints.

Manager Revella replied, yes.

Mayor Maher said yes, they just bled through.

Trustee Hoffman mentioned he asked Jay and Dean in terms of numbers of where they stand with enforcement. Don't have Dean's yet, but Jay reported 1,060 citations issues and about 1% come before the Board. Jay's efforts are well received and moving forward.

Trustee Leonard announced the Village Holiday party details on Saturday, December 14th at Wooster Grove.

Public Comment

None.

Adjournment

Deputy Mayor Rumbold moved to adjourn. Seconded by Trustee Hoffman. All ayes. Meeting adjourned.