

Village of Walden  
Planning Board Meeting  
November 04, 2013

|                     |                 |         |
|---------------------|-----------------|---------|
| Chairman:           | Stan Plato      | Present |
| Members:            | Jay Wilkins     | Present |
|                     | Brian Sebring   | Present |
|                     | Lisa Dore       | Absent  |
|                     | Jason Trafton   | Present |
|                     | John Duffy      | Absent  |
|                     | Ron Gainer      | Absent  |
| Building Inspector: | Dean Stickles   | Present |
| Village Attorney:   | Robert Dickover | Present |
| Secretary:          | Nancy LaMancuso | Present |

Stan Plato - Called the Planning Board meeting to order at 7:30pm

**1. APPROVAL OF MINUTES:**

Stan Plato – Approval of minutes; will hold over to next meeting for August 5, 2013, August 28, 2013, September 9, 2013 and September 18, 2013.

Dean Stickles – At the last meeting I asked that if anyone had any comments, questions or corrections to please get them to me. I hadn't gotten any so we are going with what's there.

Stan Plato – Ok, good.

**2. BOARD BUSINESS**

**A. PUBLIC HEARINGS:**

**B. FORMAL APPLICATIONS:**

**B.1 158-160 West Main Street, Site Plan.**

Dean Stickles – The Board received from the County a response letter that's for Local Determination, if you so choose you can grant approval for their site plan. They have done all the corrections they needed to do.

Stan Plato – Can you give us a summary of what you are doing?

Kenneth Charles – The property is the same property that has been there for 80 years, it has had the 2 commercial store fronts for 80 years, the same apartment for 80 years there's absolutely no changes of any kinds in the last 80 years. We're not doing anything at all, we're not changing a nail in a piece of wood, we are doing absolutely nothing, other than continuing to rent out the stores that have always been rented out for the last 80 years. We're not doing electrical changes any wood changes any nail changes we're not going through Dean Stickles for any kind of work to be done. This is a technicality that has to be done. It was explain to me that something got changed years ago and there had to be some kind of Site Plan approval. I submitted a Site Plan that I had, brought the survey with me, shortly after we bought the property and that should do it. I don't see what else we need to do.

Dean Stickles – We included in our Site Plan approval process about 10-15 years ago a Site Plan waiver. However you had to have Site Plan first, this property has never had Site Plan for the 2 store fronts. So they have applied for Site Plan approval for the 2 existing stores that will not change their size, character, hours of operations or anything. It is just they cannot take one tenant and put another tenant in without coming here, that was the purpose of Site Plan waiver many years ago.

Stan Plato – So change of a tenant they have to come here?

Dean Stickles – Yes, they always had to come here. That's why we put the waiver. So they are here seeking the Site Plan so they can have a new tenant move in and then if they have tenant changes that meet the criteria under the Site Plan waiver they don't have to come back to the Board.

Robert Dickover – They have such a provision and this one falls under probably Sub "G" where the Board at your discretion can waive the Site Plan elements that you would normally require a Site Plan, topography, driveway, signage, lighting all of the Site Plan elements you do have the ability to waive them under special type circumstances. Now whether or not you deem this to be that kind of an application or not is up to the Board. It falls under Subdivision "G" (Mr. Dickover read the Subdivision to the Board) it is a bit of a requirement, I don't know what the Board's procedure or practice has been in the past on these types of applications.

Jason Trafton – What if in the future there does come a Site change?

Dean Stickles – Then they have to come back to the Board.

Robert Dickover – Essentially what would happen is that the drawing (submitted) would become the approved Site Plan signed after this particular thing the change in the physical configuration showing on the drawing would require an application for an amended Site Plan.

Stan Plato – Any questions or comments from the Board? None noted.

Robert Dickover – There are some housekeeping items that need to be addressed; this did require a 239 Referral.

Dean Stickles – It came back as a Local Determination.

Robert Dickover – You need an EAF.

Dean Stickles – We have.

Robert Dickover – The Board would have to declare itself Lead Agency type the action as an Unlisted Action, review the EAF make a determination upon it and then determine whether or not the Board wants to waive the Public Hearing requirements and if we get through all that then perhaps the Board can adopt a resolution.

**Jay Wilkins made Motion to Declare this as an Unlisted Action under SEQRA  
Seconded by Jason Trafton  
All Ayes / Motion Carried**

Stan Plato – We have the short environmental assessment form. Has Ron Gainer reviewed this?

Dean Stickles – Yes, he has no problem with it.

**Jay Wilkins made Motion to grant a Negative Declaration in regards to SEQRA  
Seconded by Brian Sebring  
All Ayes / Motion Carried**

**Jay Wilkins made Motion to waive the Public Hearing  
Seconded by Brian Sebring  
All Ayes / Motion Carried**

Robert Dickover – Here is my suggestion for a resolution to adopt this plan as a Site Plan if that's what the Board is inclined to do. I think your motion should incorporate a statement that the Site Plan elements required by Section 305-60 which are not shown upon this Site Plan are here by waived by the Board and that any information shown on this Site Plan with respect to properties that are not the subject of this application are not approved by this Board as consisting of Site Plan elements on surrounding properties. Sometime you will get a Site Plan that shows features on adjoining properties and if you approve that Site Plan someone down the road might want to say that you approved those elements on somebody else's property and waive that around in front of you at some future point. So you're not approving Site Plan elements shown on adjoining properties.

Stan Plato – Has that happened?

Robert Dickover – It's happened.

Stan Plato – Then any future changes or modifications will require an application to amend the Site Plan before this Board.

**Jay Wilkins made Motion to approve the Site Plan for 158-160 West Main Street from the above statement by Robert Dickover  
Seconded by Brian Sebring  
All Ayes / Motion Carried**

Kenneth Charles – One question for Dean Stickles, future tenants in one of those 2 store fronts, when the waiver is applied for does it have to be applied for through us the landlord or through the perspective tenants?

Dean Stickles – It's generally applied for through the owner.

Kenneth Charles – Ok, thank you.

**B.2 160 Old Orange Avenue, Site Plan.**

Dean Stickles – This is similar to what the Board just had in front of them. It is a professional building that was constructed and remodeled in the 1970's, it had an eyeglass business and also a dentist it was sold it had an eyeglass and also another dentist and a lawyer in it. What the applicant now is trying to do is massage therapy which is a profession licensed by the State of New York and all they are looking to do is occupy the empty space that the eye doctor occupied. I have provided some pictures of the site; the parking on site is enough to support both offices which are approximately 1230 square feet each. This applicant unfortunately does not have a Site Plan to go off of, the site is existing it is not changing in any shape or form.

Stan Plato – Basically it is a change of use?

Robert Dickover – It is the same kind of application.

Stan Plato – Does it even have to come before this Board?

Dean Stickles – Yes.

Robert Dickover – Dean Stickles point is that it is a change in the category use. It's going from a professional office to what will now become a business office.

Dean Stickles – Technically it's not a change of use, it's a professional office going to a professional office, however it goes back to the same thing there's no way to give a waiver when you have a new tenant. The tenants that are currently there or the one that moved have been there since 1986. Dr. Hermann sold to the new owner, his practice is still there but the eye doctor moved out to Route 208, so there is now an empty professional office. They are requesting a copy of a Certificate of Occupancy for this building in a letter that they have approvals to be there, which I can't give because I don't have that in a file. They're coming to the Board to overcome a technicality.

Stan Plato – Now they have to produce a Site Plan since there is nothing, is that correct?

Dean Stickles – That would be up to the Board. There is no Site Plan as of 1971 forward.

Robert Dickover – Seems to be like the same application that the Board just handled.

Jason Trafton – It would be beneficial for the applicant to have an official Site Plan.

Dean Stickles – The new applicant is under a time schedule for opening.

Stan Plato – Do we have the right waive the complete Site Plan?

Robert Dickover – You have to have something, you've got to have a drawing or a map that's what a Site Plan is.

Jay Wilkins – So if a store moves out and another store moves in it's ok, but if it's professional to professional?

Dean Stickles – No, the way it is, about 15 years ago if you were a chiropractor and you moved out and a doctor wanted to move you had to come to this Board to get an approval and it was cumbersome. So this Planning Board asked the Attorney at the time to come up with a way that the applicant would not have come to this Board every time they got a new tenant. So we came up with a Site Plan Waiver which other than the definition, is if they had to have a Site Plan approval first there were no changes to the outside, no change in operation, no change in the requirement for parking and one there's one other one, then with consultation to the Building Inspector they could talk to the Attorney. If it was agreed upon then the Site Plan Waiver was granted. The Planning Board would get a copy of that letter written and the Village Board would get a copy of that letter written, however the biggest part of it was to give Site Plan approval by the Planning Board. You don't have a Site Plan.

Jay Wilkins – We have nothing to waive because there's nothing there.

Robert Dickover – The difference is the other application had a survey and at this meeting an approved Site Plan. Now that when they come forward with new tenants or new occupants there new uses they might be eligible for a Site Plan Waiver.

Stan Plato – If the applicant can get a Site Plan that would make this easier.

Justin Rende – We tried to get a Survey, we bought the property 2 months ago. A survey was not available, I didn't that was an issue since we aren't making changes to the property.

Jay Wilkins – Have you had your attorney check with the sellers attorney to see if the had one?

Mary Jane Rende – At the closing they said they didn't.

Stan Plato – We can't make a decision tonight, our counsel has to review and see if the Site Plan could be waived which we don't think it could be. As a suggestion, the next meeting is November 20<sup>th</sup> if you have chance to get a survey or find one and present it.

Jason Trafton – We still need the referral from Orange County.

Dean Stickles – It's already been sent so the Board couldn't make a determination tonight because I have heard back from Orange County.

Stan Plato – The best thing for you to do is get a survey.

Robert Dickover – Did you have an attorney when you bought this property 2 months ago, local attorney?

Mary Jane Rende – Yes we did a local attorney from Middletown.

Robert Dickover – The attorney that you used from Middletown, why don't you contact his office and ask him if he sees any reference to a prior survey on this property, it may have appeared in your title report or referencing to the deed that came into the prior owner. Make an inquire to the attorney if there is any record or reference to a prior survey and if there is see if you can track it down. It's unusual that a 1971 property that houses a commercial building that it wouldn't have a survey at this point and time. If there was a mortgage on that property in the last 15-20 years that lender required a survey. There is not requirement that it be filed in the Village of Walden unless it is a Site Plan, which is what we are asking you for now, that is how they get here.

Mr. Eckert – My wife is the one leasing the space. Just a little background, she is like you said a professional licensed with alternative medical, but be it still medical. It's not a real stretch to say its right in line with what was there before. Is all this really needed?

Stan Plato – We don't know because our counsel has to review that and see.

Mr. Eckert – It's truly medical professional.

Robert Dickover – I don't think that is the question that brought you here. You are required something from the Village of Walden called a Certificate of Occupancy or Certificate of Use. Where the Village of Walden says that your use is legal and that there is an approved Site Plan, we can't give that to you even if what you are saying is true. One use to the other use doesn't require Site Plan approval that's the best that the Building Department can give you is a letter that there is no Certificate of Use required, that's not what you have asked them for. You have asked for a Certificate of Use.

Justin Rende – Can we amend it?

Robert Dickover – You can amend any request that you want.

Stan Plato – But we don't know if the State is going to accept that either. The easiest thing again is have your attorney contact the seller and see if a survey was filed somewhere.

### **C. DISCUSSION ITEMS:**

#### **Public Hearing Notice Signs**

Dean Stickles – Presented to the Planning Board a sample of a Public Hearing Notice Sign for the Board to look at.

Stan Plato – Any questions, comments, does everyone agree with it? Everyone liked the sample sign.

Robert Dickover – You will need some regulations as to what you’re going to do with it.

Stan Plato – We’re recommending it to the Village of Walden Board. The Public Hearing that is posted in the paper doesn’t get to the people it doesn’t seem to strike home. To see a sign on the property might make a difference.

**Jay Wilkins made Motion to Adopt the Public Hearing Notice Signage**

**Seconded by Jason Trafton**

**All Ayes / Motion Carried**

**D. INFORMATION ITEMS:**

**E. CORRESPONDENCE:**

**3. COMMUNICATIONS:**

**4. EXECUTIVE SESSION:**

**Jay Wilkins made Motion to close the Planning Board meeting**

**Seconded by Brian Sebring**

**All ayes / Motion carried**

**MEETING ADJOURNED: 8:30pm**

RESPECTFULLY SUBMITTED

November 04, 2013

Nancy LaMancuso

Planning Board Secretary