

Village of Walden  
Zoning Board Meeting  
October 3, 2013

Chair:	Brenda Adams	Present
Members:	Rebecca Pearson	Present
	Carolyn Wesenberg	Present
	Faith Piatt	Present
	Oscar Alleyne	Present
Building Inspector:	Dean Stickles	Present
Village Attorney:	Robert Dickover	Present
Secretary:	Nancy LaMancuso	Present

Brenda Adams - Called the Zoning Board meeting to order at 7:30pm Pledge Allegiance.

**1. APPROVAL OF MINUTES: N/A**

**2. BOARD BUSINESS**

**A. PUBLIC HEARINGS:**

**A.1 140 North Montgomery Street, 7:30 PM**

Brenda Adams – Please take notice that a Public Hearing will be held on Thursday, October 3, 2013 at 7:30 PM or as soon there after as can be heard at the Village Offices, 1 Municipal Square Walden, NY to consider the appeal of Mr. David Riemer for a Use Variance for property located at 140 North Montgomery Street and identified on the tax map as Section 302 Block 8 Lot 28 located in the R5 single zoning district from certain provisions of the zoning law of the Village of Walden so as to construct a six (6 ) family apartment building. Vary Section 305-10 uses in residential district so that as to construct a six (6 ) family apartment building were only single family dwelling are allowed, all persons interested shall be given the opportunity to be heard on the issues raised on the appeal.

Dan Riemer – Presented mailings for counting. We received approximately 40 of the mailings back I think a total of 56 that went out. We are still receiving return slips as of today.

Brenda Adams – That’s ok, you have a fair enough amount. We have a total 43 names 1 is a duplicate.

Dan Riemer 2139 Albany Post Road, Walden, NY presented plans for review – I am trying to purchase a piece of property from Merna (Michalek) Wolfe and her family at 140 North Montgomery St., the Estate of Rose Michalek. There is a 2 family home there now, which I would like to live in and there happens to be a variable barn there. I build homes, I wanted to get rid of the barn and build a 6 family building there. I have preliminary drawings if anybody wanted to take a look. The first page is a map of the existing property, right now there is an existing home there and the L-shaped barn. I wanted to put a 6 family apartment building right here (area of the barn) with the entrance would be off of Route 52, 12 parking spots in the rear and ADA compliant parking as well. The garbage area enclosed with a fence and landscaping, play area for the kids and sidewalks around the rear of the building to the front of the building has an area of shelter for the school bus as well and sits off the road a little bit, it’s going to be covered and have the same siding and color combinations as the building has. Landscaping

maintained by myself. The school bus house will be with the same siding open in the front no doors or anything like that just for the kids use as a bus shelter. Each individual unit will have gas fire boilers and hot water and the 3 lower units on the main bottom level will be ADA compliant with 30" doors going to the bathrooms and the bedrooms. Each unit will also have its own washer and dryer. Hardwood flooring and that kind of thing, I'm trying to make it look nicer. Right now there is a very old barn which is old and needs to come down eventually before it falls down. The reason we are here today is because I like this piece of property and I spent a lot of time in Walden as a kid and I saw that and wanted to purchase it contingent on trying to get this approved. If I am going to move there I wanted to be able to do something with that area. At one time it was all agricultural obviously and today it's not. I wanted to make it more conducive to what have now. The back of the property backs up to a condominium complex I think we border. I know it is zoned single family but there are quite a few multiple family dwellings within close proximity, as a matter of fact right next door there is a commercial I think a HVAC guy or something like that I think. Any question I can answer?

Brenda Adams – Now that you plan to live in this are you going to make it a single family?

Ray Michalek (and Brother Frank Michalek) – 120Benefit Avenue, NYC, NY – I am the administrator for the Estate of Rose Mahalik my mother and this is my brother. Right know it is a legal 2 family house.

Dan Riemer – The existing home I was going to leave it as is because I will be putting so much money into trying to do that. Obviously I would upgrade things, like improve the kitchen. The exterior while I was doing that the whole piece of property has some very mature landscaping there that probably needs to be taken out and brush material that needs to be brought in, so that the whole thing all matches and also some type of a fence where it is compliant. They would look like they are tied together even though they are not.

Brenda Adams – You made the comment that you were going to live in that so you would still rent out 1 apartment in that building and live in the other?

Dan Riemer – Yes. Plus I can keep an eye on things as well.

Rebecca Pearson – The home has been for sale for a long time, how long has it been empty?

Myrna (Michalek) Wolfe 40 Flori Road, Pine Bush, NY – The home and the land is in the Estate of Rose Michalek, who is my mother, she passed 6 years ago the house has been vacant for 4 years.

Rebecca Pearson – Dean Stickles the setbacks on the property, does there have to be setbacks on both sides for putting in an apartment building and how far does it have to be.

Dean Stickles – R5 is 10 on one side 8 on the other 25 and 25, the setbacks as far as the building.

Rebecca Pearson – Does he know there needs to be 900 square feet for apartments minimum?

Dan Riemer – Yes, Dean Stickles had informed me of that and if you look at the right (of the plan) side each of the units are well over a 1000.

Myrna (Michalek) Wolfe – As I had mentioned before there are many many units there that are not single family dwelling. This itself is a legal two family house and then you have a 4 family house, senior apartments and condominiums right in the backyard so no longer single family units yet they have been allowed.

Rebecca Pearson – Dean Stickles if a home has been left empty? Was this grandfathered in, did this go before the Zoning Board to get the zone changed for a 2 family home at one point?

Brenda Adams - No, it's non-conforming.

Dean Stickles - Pre-existing non-conforming.

Rebecca Pearson – So when it's left empty for over a year does it convert back to the regular R5, so it should be a single family home right now?

Myrna (Michalek) Wolfe – Actually my brother is using it as a second home when he comes up here, it hasn't really been totally empty.

Brenda Adams – How long has the house been empty as far as being rented?

Myrna (Michalek) Wolfe – As far as not being rented, the one bedroom apartment was rented.

Brenda Adams – How long has it been empty?

Myrna (Michalek) Wolfe – I would have to go through my records and get the information.

Brenda Adams – In order to get a use variance you need to create that there is financial hardship.

Dan Riemer – The financial hardship is that, obviously it's for agricultural purposes and it's no longer an agricultural area. There are several multi family buildings there and this will improve the property and improve the equity of the property as well as make it look much nicer and become conducive to the community. Right now it is an eyesore. I won't purchase it and unless this happens, it's not worth it to me. I want to at some time in the future look at retiring and I feel that this property would work for me, getting rid of the barn and building a building there and live there myself. I not the only one that would make out; there would be a beautiful home there.

Brenda Adams – We're not disputing that part. In order to get a use variance you must show financial hardship.

Ray Michalek – It certainly is a financial hardship to us.

Brenda Adams – To maintain it?

Ray Michalek – To maintain it, to not receive any revenue for it, we're not landlords we don't have tenants, we did and it was a disaster. The police were involved, there were huge costs we still have damages that was purposely done.

Brenda Adams – This estate is from your mother and is still in her name?

Ray Michalek – It was originally appraised at \$315 thousand we have come down to a selling price of \$180 thousand.

Dean Stickles – There are variances commercial/apartment building next door 4 family in it. The use was there prior to the zoning and the expansion of that use went through the Zoning Board for a use

variance, it maintained its use. The mobile home park has been there since the 40's and is zoned a mobile home park. The Townhouses are attached single family homes. There are senior apartments also and while your asking are allowed by zoning through special exception and site plan through Planning Board.

Brenda Adams – Thank you, any other questions from the Board?

Rebecca Pearson – This map that we got on our original packet, if you look at the top of that page it says Winding Hills Homeowners Association so this is not correct it should say Winding Brook Homeowners Association, you may want to have that corrected by whoever did that map for you.

Dan Riemer – In order for this to be considered a financial hardship the property is in the estate which is held by the children of the estate and I am applying on behalf of them, just doing the leg work and obviously in the end I would end up with the property. So the claim of financial hardship would actually be on their behalf, I understand where you're coming from how is it a financial hardship for me, personally it's not after I acquire it, I get it.

Myrna (Michalek) Wolfe – This certainly would be considered a hardship, we have had on numerous occasions' people starting fires and we have had the fire department there many times. Boards keep getting ripped down and the kids go in and make it a clubhouse. As the police have said to us, they can't parole constantly. There is a hardship, we are in this position.

Brenda Adams – What about a financial hardship in the sense, I realize you have to maintain it.

Ray Michalek – It's any obligation for us; if we walk away then the state would take it over. There is no revenue coming in, we're using our funds to pay the taxes, insurance etc. It was appraised at around \$315 thousand 6 years ago and we brought the price down to try to sell it.

Myrna (Michalek) Wolfe – I do have the appraisal.

Ray Michalek – It hasn't been easy with the conditions to buy it just fell apart; it hasn't been an easy time. We haven't been able to sell the property and have reduced the price considerably.

Brenda Adams – We are looking at the alternatives.

Faith Piatt – Is there any money owed still on the house.

Ray Mahalik – No.

Oscar Alleyne – When you mention the word apartment building everybody naturally thinks of 35 North Montgomery Street. The homeowners are looking at it with a little skepticism, first of all we knew nothing about the project and what the grand potential is, obviously we're concerned about, I'm sure this is not your intent. We're just trying to learn about this project and we have some homeowners here today that actually face or border the property now. I'm sure that they probably have concerns about several issues and want to have as much information as possible about it.

Brenda Adams – Any more question from the Board? None.

**Carolyn Wesenberg made Motion to Open the Public Hearing  
Seconded by Rebecca Pearson  
All ayes / Motion carried**

Peter Picairillo, Homeowner Association representative for Winding Brook, 30 Pond Hill Lane – Concerns about multi-family being built along with property issues and property values.

Linda Burl, Secretary of the HOA Winding Brook, 41 Winding Brook Dr, Walden, NY – I'm very concerned about it being multi family and what that means in terms of property, noise, life issues, that is the quiet side that's the beautiful side of my property. Also in terms of our property an area that is very damp and moist and wet and marshy and I would wonder what the effects of the drainage would be to our property might be from this multi family dwelling being positioned next to us.

Debra Frank 55 Winding Brook Dr, Walden, NY – I am concerned about the noise in the area and there is a lot of noise down in the area back there with the mobile homes and we're very concerned about what this is going to do to my quality of life and others peoples quality of life. Like they were saying they can't get renters.

Myrna (Michalek) Wolfe – Children are permitted in Winding Brook Condominiums, so what would be the difference with children playing at this site?

Dan Riemer – I have a few comments to make that would put a few minds at ease as far as my intentions go. First I do not have any intentions of it being Section 8 housing at all and would be willing to put that in writing. Second in between the two properties on the property line that runs adjacent to Winding Brook there is right now a type of fence I would make sure it was reinstated or was kept, right now there is a white fence that goes between the two properties. Also possibly some foliage and landscaping would dampen the noise and also provide a little bit more privacy, because there are windows on the back side of your units as well my proposed units. There would something in writing on a plan that everyone could look at and see. I would also be willing to be held accountable of what he has to do before he can get a C.O. There was an individual who had contact with me from the trailer park in regards to possibly to use my future property for some drainage and wanted to know if I would allow him if after I acquired the property to come through the back of my property with drainage out to Route 52 is my understanding to a sewer line, that was a great possibility and also would alleviate the dampness in the back of your property over there and mine, as the basement is a little wet as well. If anyone has any other questions after we leave I will leave my business cards and they can contact me.

Mohamed Abuh – I live across the street. I moved here about one (1) ago from the City. I am afraid that it will become the same as the place I ran out from.

Lynn Schwandt, 143 North Montgomery St, Walden, NY – This property is diagonally across from me. I want to know what impact it is going to have on our sewer system, I have a holding tank in my yard with 6 more families coming in with children it might impact us. I get nervous about that. Also I see the house every day and the apartment has not been rented in probably the last 3 years at least.

Myrna (Michalek) Wolfe – No, I don't think so.

Brenda Adams – We will ask for proof of that in one way or the other.

Ray Michalek – In regards to the excess water, prior to the building of Winding Brook there was a huge drainage ditch that never did its job properly, in fact it caused water to accumulate as opposed to drain it away and from the point on my mother had to take steps to putting in sump pumps and things like that on the property which actually devalued the property. The fact is the drainage problem partly your responsibility.

Dean Stickles – Winding Brook they are attached housing each individual home is owned by an individual property owner. They each have their own Section Block and Lot they are just attached in one building.

Myrna (Michalek) Wolfe – Can something like that be done, instead of a six family apartment building?

Rebecca Pearson – Apartments are rented and condos are owned that is the difference. It's a whole different ballgame, renting is one issue and homeownership is another. These are paying taxes their paying everything to upkeep that property as well that's why there is a homeowners association associated with that.

Myrna (Michalek) Wolfe – I was just asking about the concept. If the concept is that their considered single homes even though they are attached possibly something like that can be incorporated here.

Rebecca Pearson – Could be, but I believe the size of the units might have to be bigger; there are different requirements for that as well.

Myrna (Michalek) Wolfe – Ok, I just asked because it came to mind.

Ray Michalek – I can show approximately at \$10 thousand loss.

Carolyn Wesenberg – You mentioned that your brother spends time at the house?

Frank Michalek – Yes, I come up approximately monthly and stay at the house for a few days.

Rebecca Pearson – (to Dan Riemer) You've built other properties locally?

Dan Riemer – From start to finish; right now I have a couple of open building permits. If you want to see finished products you would have to go to Newburgh. I have a few open building permits; one on Walnut Street Dean Stickles has the information on file here in the Village.

Brenda Adams – Do you have any other projects of this nature?

Dan Riemer – Yes, I've done one.

Brenda Adams – I mean that you have invested in personally?

Dan Riemer – No.

Rebecca Pearson – You said you would not rent to Section 8 but if you were granted this use runs with the property, you may sell it you may choose to do something else with it, someone else would come in an possibly do whatever they wanted to do with it as well if those apartments are already there. That is another thing we look at for future. It's not just for the time you may own that, you may turn around in 3 years and say gee I want out of this I want to sell it I'll make a profit and all of a sudden we have other people living in that spot which you said would not happen but doesn't mean it wouldn't happen in the future. That is something we need to look for it the future part of this as well.

Dan Riemer – I understand.

Myrna (Michalek) Wolfe – Could that be put into a deed?

Rebecca Pearson – No. Dean Stickles, Winding Brook has their own sewer and water?

Dean Stickles – Yes, they have their own pump station. They don't have their own sewer, Village water and Village sewer but they maintain it. The water and sewer and pump station have not been offered for dedication to the Village of Walden.

Peter Picairillo – These folks have made investments and bought their properties as single family homes and have concerns of what the area would turn into.

Robert Dickover – There has been some indication by Ray Mahalik that he has some financial losses.

Rebecca Pearson – With an unoccupied home after 2 family legal which legally would be turning back into a one family, where does that leave us?

Brenda Adams – You must have been keeping records for the estate?

Ray Michalek – Yes, there are canceled checks and you already have records of the paid taxes.

Brenda Adams – You would have to show us financially from the date of estate to present.

Carolyn Wesenberg - I need to express a concern though. You say that you stay there?

Frank Michalek – Yes, as often as I can.

Carolyn Wesenberg – Ok, so monthly you're staying there you're having use of the house, which means the use of both apartments?

Frank Michalek – I check on it also.

Carolyn Wesenberg – Ok, but it's something that doesn't sit with me is that you are still using it.

Ray Michalek – It hasn't been done in 6 years or more so if you multiply that number that money is not coming back, any repairs any projects we do. We have the expense of the taxes, insurance, maintenance etc.

Carolyn Wesenberg – But you had renters during that time also.

Ray Michalek – Yes, we technically may have had a rental who never paid the rent.

Brenda Adams – Well this is something that you will have to bring us.

Ray Michalek – The damage done to the building, would that be a hardship, the thousands of dollars done to the house.

Faith Piatt – I think that was my concern and that is what my question was. I think I want to see where the cost is a hardship pertaining to selling the property, although the barn is uninhabitable and is going to be needed to come down. I'm looking for a hardship that we can put towards the house. I know that you got an appraisal 6 years ago but that was in the height of our economy boom and everyone has lost property values since then. Show me some type of hardship pertaining to the house, need a financial report, income from rent, expenses, to show profit or loss from the start of the Estate.

Brenda Adams - Told criteria for use variance; realize reasonable return, unique hardship, not alter character of neighborhood, not self created.

Ray Michalek – We have adjusted the price to half.

Robert Dickover – Ms. Chairman I think you clearly stated most of the needed items with respect to this kind of an application, but there is even more that the applicant has to demonstrate to you and that is that they can not get a reasonable rental on permitted uses in the zone. The permitted use is single family at this time and in addition to that under special exceptions there are other uses to the property to which it could be put and your obligation to prove financial hardship to the Board is that it cannot be used for any other types of uses that are permitted and the use table in our zoning code until you can demonstrate that to this Board. I think they have a difficult time and are giving you a chance to show hardship by offering you the opportunity to extend this meeting.

Myrna (Michalek) Wolfe – On the other uses nursery etc, however when we offered the property for sale we didn't say you can't use any of these other permitted uses and it did not entice them. It is still one piece, it has not been subdivided and that process would be done at our expense. I gave the list to anyone interested; they all had the same list of permitted uses.

Brenda Adams – The public hearing will be extended to the next meeting November 7, 2013 @ 7:30pm, all are invited to attend again. There will be no public notice because we are extending it.

**Carolyn Wesenberg made Motion to keep the public hearing open and continue it on November 7, 2013 @ 7:30pm**

**Seconded by Oscar Alleyne  
All ayes / Motion carried**

**B. FORMAL APPLICATIONS:**

**B.1 140 North Montgomery Street, Use Variance**

**C. DISCUSSION ITEMS:**

**D. INFORMATION ITEMS:**

**E. CORRESPONDENCE:**

**3. COMMUNICATIONS:**

**4. EXECUTIVE SESSION:**

**Carolyn Wesenberg made Motion to close the Zoning Board meeting**

**Seconded by Oscar Alleyne  
All ayes / Motion carried**

**MEETING ADJOURNED: 8:45 PM**

RESPECTFULLY SUBMITTED  
October 3, 2013  
Nancy LaMancuso  
Zoning Board Secretary