

Village of Walden
Zoning Board of Appeals Meeting
December 03, 2015

Chairwoman:	Rebecca Pearson	Present
Members:	Carolyn Wesenberg	Present
	Gregory Raymondo	Present
	Mary Ellen Matise	Present
	Faith Moore	Present
Building Inspector:	Dean Stickle	Absent
Village Attorney:	Robert Dickover	Present
Secretary:	Nancy LaMancuso	Present

Chairwoman Pearson - Called the Zoning Board meeting to order at 7:30pm with the Pledge of Allegiance.

1. APPROVAL OF MINUTES:

Chairwoman Pearson – Approval of minutes for 10/01/15. Building Inspector Stickle is not here this evening.

**Member Raymondo, made Motion to accept Zoning Board of Appeals Minutes of 10/01/15
Seconded by Member Moore, with all members voting yes.**

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1 98 Gladstone Avenue, Continuation, 730pm

Chairwoman Pearson – We are at a continuation of the Public Hearing, thank you to the public for coming again. At the last meeting we had a conversation with Attorney Dickover before Chapel Field Christian School about wanting to move forward with possibly a plan of action.

Joe Coburn, Attorney from Pine Bush representing the current owners of the property – As discussed at the last meeting, appropriately the application for the Affirmative Evangelism Fellowship would be assigned to the current owners of the property The Little Sisters of the Assumption and they have accepted it. To outline the further develop the intended uses that AEF would have of the property if they were to acquire it we have something further to delineate, outline and amplify what the intended use of the premises would be.

Chairwoman Pearson – Read letter sent to the Zoning Board dated December 2, 2015 from the Affirmative Evangelism Fellowship. Are there any other comments.

Joe Coburn – No.

Chairwoman Pearson – There were additional mailings received.

Member Moore and Member Wesenberg - Counted mailings; mailed 8, not pick up 10.

Chairwoman Pearson – Anything from the Sisters, comments etc. I'm assuming you're all working together as a group.

Sister Jean – Yes.

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Chairwoman Pearson – Any other questions/comments by the Board? None noted. I'm saying this is a possible interpretation for a school as opposed to a Use Variance.

Attorney Dickover – It's not unusual for the Board to have applications for any kind of variance amended during the application process, it's very common. In this case you have an application for a Use Variance, a proposed use is that of a school or boarding home or what have you. You heard testimony of what Chapel Field Christian School does in its current location which is not for the location that this Board is considering but in the analysis the Zoning Board may have to determine what is being proposed. Here the suggestion has been made is that the use might be that of a school. A school in this particular zoning district is an allowed use, subject to Special Exception Use Permit that would be issued by the Planning Board upon Site Plan application and review. In this analysis and process that the Board goes through if the Board determines that the applicants use is in fact a school, that is an interpretation analysis of their application, is that the Board deems this to be an application for a school that does not require a Use Variance. The Board can then suggest to the applicant that they proceed to the Planning Board for a Special Exception Use Permit. The Planning Board would then have to entertain that application. If the Board is going to proceed in that fashion, you need to hear from the applicant as to what the use of the premises will be in the nature of a school. My review of the Village of Walden code fails to identify in any particular definition for a school, it's not in your code.

Chairwoman Pearson – Yes, we know that.

Attorney Dickover – You have a nursery school defined, that maybe helpful because it talks about education component. In the absence of a specific definition in your code the law in the State of New York is that you then turn to case law. There is a little bit of case law on schools and what they are comprised of, strangely enough they deal with riding academies primarily, horses and use of them. There are some other cases that delve into it but in the analysis New York courts say that you should look at three elements to determine whether or not a proposed use is a school. The first one is the curriculum, the second is the physical plant and the third is the educational staff, are they certified are they teachers are they teaching an educational curriculum. I don't know if the Board has heard from the new applicant or even the old applicant on this matter with respect to those there elements, it seems to me that the second of them physical plant probably sets itself up nicely for use as a school. I think you have heard some testimony on that element and some members of the Board have made a site visit of the facility in respect to that. The other element that you have heard a little bit about is the staff that is going to be onsite but on that particular element I don't think the Board has heard about what educational function they will be serving as staff and on the first element that of curriculum I don't know that the Board has heard anything other than a general use of the description of the disciplinary type regiment that Chapel Field Christian School exacts from their students. I do think that the Board has to be able to make a distinction between residential curriculums versus an educational curriculum. The case I have read about in New York when they talk about curriculum they talk about it being an educational component. They distinguish between things like art not necessarily an educational component, teaching ceramics for instants is not necessarily an educational curriculum, teaching people how to ride horses is not necessarily an educational curriculum as much is might be a recreational one. Other cases talk about summer day camps that are being run by schools have pretty much determined not to be schools but rather recreational activity rather than school. So if the Board is going to proceed in this analysis my suggestion is that you ask a certain number of question of the applicant as to what their educational curriculum will be any further questions that you feel necessary with respect to the physical plant and how is sets up as a school and thirdly what is the educational expertise skillset qualification of their staff, that would lead the Board to make a determination that it's an educational school.

Chairwoman Pearson – Is everyone following what Attorney Dickover just explained? Consensus was yes of the Board and the applicant. Attorney Dickover has explained it quite well, that's why I wanted him to explain it. Let's start at the beginning. If we are calling this a school and you then go to the Planning Board for Special Exception Use what would your curriculum be like?

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Joe Coburn – I believe the curriculum would be consistent and in addition to the curriculum that would be held on a regular basis at the Chapel Field Christian School itself. Also having things like ESL English as a Second Language, remedial instruction for those students that need special assistance in any area of curriculum, be it Math English, Science etc., and further instruction on an individual basis as may be presented by any particular needs of any of the students.

Chairwoman Pearson – There are rooms for classrooms there, we did see that. The Board saw the dormitory, the classrooms size, chapel, kitchen and everything else, and thank you for the tour of the facility. Will there be additional teachers there or will just be the people that are living there, will there be people coming from Chapel Field Christian School going there?

Joe Coburn – There would be instructors from Chapel Field Christian School going there on an as needed basis. It would be as the needs present itself on a day to day basis.

Bill Spanjer, Principle of Chapel Field Christian School – There would be a set schedule for teachers to come to the facility to teach students subjects and tutorial items on an individual basis.

Member Matise – Do they do after school instruction now at the Chapel Field Christian School?

Bill Spanjer – This would not only be after school, it would be in a daily schedule, and some students might stay behind at the site. Because these students are in different grades 9th-12th most of the ESL and English Literature that is necessary for students culturally coming from other countries to academics in the United States, a lot of that takes place in the 9th grade or in the first year a student comes to Chapel Field Christian School. We would schedule regular classes in the morning in those subjects for those particular students and then they would come over the Chapel Field Christian School in Pine Bush for their Science, Laboratory, Tech and other subjects. But it would be a specific schedule for individual students and there would be some students that would also take those courses during the school day but then would remain in the evening also for other programs, study time etc. or maybe Saturday mornings. We're just not sure how at this time.

Chairwoman Pearson – Any other questions/comments by the Board on the teaching part? None noted. The next was the physical plant/building. I saw that it is pretty much setup for that. I think we all felt that.

Joe Coburn – I don't believe that it's intended that there would be any renovations.

Chairwoman Pearson – And in qualified staff, they would be regular teachers?

Bill Spanjer – Teachers would be scheduled in, depending on the volume of students we had. About ½ of our teachers are certified in NYS the rest of our teachers all have their degrees etc. depending on the subject they teach.

Member Moore – What is the ratio of students to teachers now?

Bill Spanjer – About 1 to 10 basically.

Chairwoman Pearson – I did a little bit of research also on the definition of a school. Something I found is that it is kind of generic. I went to e-code and I couldn't find anything that was really a definition. I spoke to Attorney Dickover and he sent me some info as well. I will tell you what I found for school. An institution of education of children, any institution which instruction is given in a particular discipline, a division of an educational institution constituting several grades or classes. It sounds like we could combine what we want it to be as well, I'm hearing?

Attorney Dickover – These are all instructive phrases.

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Chairwoman Pearson – I don't want to say it's vague but it is. They're all basically the same so that is something the Board can look at as well as a definition, if that's the direction the Board feels they want to go in. I don't know about the Use Variance because we haven't heard the hardship end of it, financials this Board would have to see all of that.

Attorney Dickover – That would be if the Board doesn't determine that it's a school. Then the next step for the applicant would be to pursue a Use Variance and those would be the things that are required. The applicant has the option to pursue both of these requests at this time if they feel that they don't want to go to the Planning Board on Special Exception Use Permit but would rather have the Zoning Board entertain an application for a Use Variance they would have to withdraw that upon an interpretation.

Chairwoman Pearson – The Public Hearing was left open, so I would like to open this to the public. Any other questions/comments from the Public?

Sister Jean, representative of Little Sisters of the Assumption – We have been in the neighborhood since 1938. We have worked very hard to find the right buyer for the property. We value our neighbors and we have had many people look at the property that I would never entertain or want to put in the neighborhood. We feel very strongly the connection with the Chapel Field Christian School is so in keeping with whom we are and the spirit in which we would like our property to be in the neighborhood. Also it truly is a hardship for us we are small and have had to maintain the property with a lot of money that could be going to take care of the sisters and those who we give our lives to.

Chairwoman Pearson – I don't think this Board is disagreeing with you. I personally feel that out of the uses that could go there, this is a good use. It's something that I think will give back to the community and working within the community. I know there are issues with the school bussing and other things like that people were concerned about, that can all be worked out. I don't think there will be any issue. In that neighborhood knowing that it's more adult children that will be there not little children with playground time and other type noises, this will have more of an adult situation which I think is a better fit for the community also. My suggestion and it's up to you the applicant as well, we can move forward with the Use Variance if that's what you would like to do or we can talk about an interpretation of the law of a school and move forward with that. If that's the way you would like us to go, it's up to you the applicant to make that decision.

Attorney Dickover – Don't close the Public Hearing, the Use Variance the Board hasn't heard enough on that, is the applicant wants to proceed in that fashion. But if the Board interprets it to be a school and the applicant is satisfied with that determination then you can close the Public Hearing and the matter. But at this point and time I've hear two of you state that you would interpret the proposed use to be a school.

Attorney Dickover – If that is the Boards feeling then you would want to make a **Motion that the Board determined that based upon the application as it's been submitted and the testimony submitted that this Board determines the proposed use is that of a school.**

**Member Wesenberg, made motion as stated above by Attorney Dickover
Seconded by Member Moore, All Ayes, Motion Carried**

Chairwoman Pearson – Any other questions/comments/discussion by the Board that we have determined the intended use to be a school? None noted.

Attorney Dickover – You've heard from the applicant, what they've put in front of the Board is the intended use. If they are going to change it then it may come back to this Board again, but if they don't intended to change it and it has been stated accurately, your records will reflect what they said and the Planning Board will probably adopt that as conditions of a Special Exception Use Permits if they are so inclined to do so. It would become part of the conditions of their use of the premises.

Chairwoman Pearson – You the applicant now have an interpretation of a school for the zone instead of a Use Variance, which will take you to the Planning Board for Special Exception Use meaning that they will hopefully allow that for you and proceed that way. If the applicant still wants the Use Variance you can still pursue that.

Joe Coburn – At this juncture I think we will hold that in on the side without abandoning it branch of the application. Let us proceed with the Planning Board at this time.

Member Matisse – The Planning Board will do a Site Plan with you, how you intend to use the property, what you're going to do, if you're doing privacy fencing for the neighbors and other things of that type. That will all come under the Planning Boards review.

Attorney Dickover – One thing at a time, first request is to table the application for the Use Variance. We ask the applicants representative to waive any time constraints requirements that this Board has to rule upon your application.

Joe Coburn – Absolutely, for the record we waive those time constraints.

Member Matisse, I make a motion to table the application by the Affirmative Evangelism Fellowship for a Use Variance, and waive any time constraint requirements on this application.

Seconded by Member Wesenberg, All Ayes, Motion Carried

Attorney Dickover – The next step, there is a formal application process to the Planning Board for Special Exception Use Permit. The applicant will need to complete it, pay any fees accordingly, and file it with the Building Dept. to go before the Planning Board.

Joe Coburn – Will this Board be sending something to the Planning Board indicating what occurred here?

Attorney Dickover – There will be a formal document of sort that will be sent to the Planning Board.

Bill Spanjer – Thank you for work and diligent in this matter, we're hoping it can go through as speedily as the process allows.

Chairwoman Pearson – The Public Hearing will be continued.

B. FORMAL APPLICATIONS:

B.1 98 Gladstone Avenue, Use Variance

C. DISCUSSION ITEMS:

Chairwoman Pearson – Any discussion items from the Board?

Member Matisse – Did the Village Board give you an answer of when the next tri-Board meeting will be?

Chairwoman Pearson – They did not. The other thing I had was I went to a solar seminar which was interesting. Has there been any zoning in other villages that we might need to think about?

Chairwoman Pearson – Town of Warwick drafted solar legislation, I don't know if they've adopted it yet. The Town of Goshen has a number of projects that are in the works, they gotten really nervous and are going to adopt a moratorium probably next meeting.

Chairwoman Pearson – Town of Walkill has a moratorium I believe right now.

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Attorney Dickover – Town of Goshen in particular was looking at solar farms.

Chairwoman Pearson – We're a Village within a Town and the Town hasn't even thought about this yet. But in the Village of Walden do we need any regulation on homes and things like that is this something that we need to be thinking about? I know someone who has solar panels and I was asking him questions and he didn't know the answers, he didn't know to ask different types of questions.

Attorney Dickover – I have reviewed some of these leases and options to lease and it's the most confounded set of transactions documents you can imagine.

Chairwoman Pearson – I didn't know if we as a Board needed to think about this.

Attorney Dickover – This is more a function of the Village Board.

Chairwoman Pearson – Don't forget to complete your training hours.

D. INFORMATION ITEMS:

E. CORRESPONDENCE:

3. COMMUNICATIONS:

4. EXECUTIVE SESSION:

With no other matters in front of the Zoning Board of Appeals, Member Moore, made a Motion to adjourn, Seconded by Member Raymondo, with all members voting yes.

MEETING ADJOURNED:

830 pm

RESPECTFULLY SUBMITTED
December 03, 2015
Nancy LaMancuso
Zoning Board Secretary