

Village of Walden
Zoning Board of Appeals Meeting
October 06, 2016

Chairwoman:	Rebecca Pearson	Present
Members:	Faith Moore	Present
	Carolyn Wesenberg	Present
	Gregory Raymondo	Absent
	Mary Ellen Matisse	Present
Alternate:	Dan Svarczkopf	Present
Building Inspector:	Dean Stickles	Present
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 06/09/16 and 07/07/16.

Member Wesenberg, made Motion to accept Zoning Board of Appeals Minutes of 06/09/16 with noted corrections, Seconded by Member Raymondo, with all members voting yes

Member Matisse, made Motion to accept Zoning Board of Appeals Minutes of 07/07/16 Seconded by Member Raymondo, with all members voting yes.

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1 61 Scofield Street

Member Wesenberg and Member Moore - Counted mailings; mailed 48, returned 34.

Ta-Kang-Lin, property owner – We bought the home together, my cousin and I. The home was on Fannie Mae they had a realtor and they listed it as 2 families. My realtor gave me the information, introduced me to the home. When you look at the home it has 3 electric meters, 2 boilers, 2 kitchens, the first floor had a fire so the kitchen is gutted. The price seemed to be reasonable and it needed a lot of work. Then I heard from Building Inspector Stickles that it was a one family.

Chairwoman Pearson – Who was the realtor?

Ta-Kang-Lin – My realtor was ABS realty, Mr. Paul Catania in Newburgh. Fannie Mae realtor I don't remember the name of the realtor.

Chairwoman Pearson – Did you know before you bought the home that it was a single family home. Did anyone let you know that at all?

Ta-Kang-Lin – No.

Chairwoman Pearson – Anything else you need to talk about, funding, money, how much it's going to cost to renovate it, things like that, that the Zoning Board needs to know about.

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Ta-Kang-Lin – It needs extensive work because everything sags. We have to start in the basement structurally because everything is sagging down and we want to make it more permanent. The work stopped because I didn't know it reverts back to a 1 family home. The second floor structure has been changed; I would have to open it up the floor to bring it back to the original layout. Cutting the center of the ceiling on the first floor and put in a stairway up to the second floor. Everything on the first floor is demolished, the electric, electrical wiring, plumbing, etc. The 2 family is nice my cousin is by herself and will probably live there.

**Member Moore, made motion to open the Public Hearing
Seconded by Member Wesenberg, All Ayes, Motion Carried**

Mike McCormick, 9 Gladstone Avenue – I've lived in my house for 10 years and I've always known that house to be a 2 family. What is the process to change it to a 2 family; I personally would like it to stay a single family. It's on the corner of Gladstone Avenue and Scofield Street and parking is tight where we live. It's all single family homes other than a few on Scofield but Gladstone Avenue for the most part is all single family and I would like to keep it that way personally.

Gary Leather, 48 Walnut Street – I also would also see it be a single family and not multiple family. We have enough in the neighborhood and I don't think we need another one.

Robert Walker, 5 Gladstone Avenue – It's so easy to reduce standards; we never get it back up again. I think it should remain as a single family.

Rona Curtain, 49 Maple Street – As long as I've lived in the Village of Walden it's been a 2 family home. When we bought our house it was a 2 family and it helped us because we are on a really limited income. If these people have bought the house and maintain it, because it's been vacant for a couple of years like the house across the street from me, I would rather see it occupied by a family. They bought the house with the intentions of it being 2 families and I think that it should be a 2 family house.

Paula Leather, 48 Walnut Street – Is there reason they can't use it for 2 families?

Chairwoman Pearson – Yes it's the law and the 900sf living space was put in for a reason, the Village of Walden Board thought at the time that was an appropriate size for a family to live in. We do have a lot of non-conforming homes in the Village of Walden now that have illegally gone to 2-3 family homes over the years and the Village of Walden Board has chosen to put this law in. If a 2 family home non-conforming, which this was sold as but not listed as, because the county listed it as a single in an R5 and the Town as well somewhere in the mix got miss information on a 2 family home because at one time it was a 2 family but it's not listed as a 2 family.

Paula Leather – I would like to see it remain as a 1 family home.

Rona Curtain – Even when I looked it up on line and seeing the history of the house it's always been a 2 family and I know people's concerns about it having rentals but if it's somebody that's maintaining the property whether they're renting it out or not isn't as important to me than the fact that, that it's taken care of. The structure has been changed so much I still agree that it should be a 2 family.

Nancy Ulmer, 45 Maple Street – I've been in my single family home for 25 years and I do recall this as a one family home. I believe that the person did have to come before the board to change it to a 2 family. There was a fire there at that time there were 8 people living there. I do agree that it should remain as a single family. Living on Maple Street for the last 25 years I've seen a lot of movement I know my neighbors on each side and that's pretty much it. We see new people on the block that we don't recognize we've had problems on Maple Street with crime, garbage, evictions and work cultures and currently to my knowledge there are 3 open houses on Maple Street, 2 that are in foreclosure. I'm for a single family house.

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Dan Svarczkopf, 64 Valley Avenue – From the Town even if the realtor checked it would have said 2 families. When was it a 2 family home and when was it converted back to a 1 family?

Chairwoman Pearson – Everything I have says single family home. The fire was in March 2014 which it was left empty for the rest of that year and then all of 2015. It has been empty over a year.

Building Inspector Stickle – Accordingly to the Village of Walden records that we have, it's been a 2 family home since 1958 up until 2014. The fire occurred March 7, 2014; I remained vacant until 2015, when it was sold from Collins to River Realty. The report that was sent back to the title company named it as a single family home, that was in October 2015. The realtor that had it knew it was a single family home at that time and so did the Town.

Member Matisse - Ta-Kang-Lin bought in March 2016.

Member Moore – I appears on the tax rolls that we are looking at now, it was listed as a 2 family up until it reverted back to a single family.

Member Raymondo – So since the 1950's the Village of Walden has known it as a 2 family house.

Building Inspector Stickle – Yes, a non-conforming 2 family house, it was not constructed that way. This gentleman has a valid permit to convert it back to a single family home. If you went in the house now you can see where the stairwell from the first floor to the second floor and it was laid out as a 1 family home. I do not know exactly the date it converted from 1 to 2 but for records show that from 1958 to 2014 it was a non-conforming 2 family house. After the fire it laid vacant.

Member Matisse – The counties GIS records, March 14' 2016 is was listed as a 1 family residence, Fitzpatrick Collins Realty. When they sold it and Mr. Lin bought it on the March 30' 2016 it was list prior to his purchase as a 1 family.

Building Inspector Stickle – The town is a year on their taxes behind the Village of Walden. So if I give them a change now it does not change for the whole year.

Member Raymondo – Mr. Lin do you have 2 water meters?

Ta-Kang-Lin – One water meter, 3 electric meters, 2 heating systems.

Member Raymondo – At one point there must have been inspections for the electric meters and boilers. So it was a 2 family home.

Building Inspector Stickle – I'm not disputing that.

Member Raymondo – What has happened is that one year changed that.

Chairwoman Pearson – Correct, anything else from the public?

Mike McCormick – If the Village of Walden has known that it was a non-conforming 2 family home how many sales has it gone through that it has been allowed to continue to be non-conforming?

Chairwoman Pearson – It's allowed until it there is a lapse in no one purchasing it and owning it then it reverts back to the regular R5 zone of single family.

Mike McCormick – What does non-conforming mean?

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Member Moore – These easiest way to look at it is, when the zoning happened in the Village of Walden because there was changes, the Village of Walden said we know this is a 2 family house, we're allowing it to happen which means it's non-conforming. So when the zoning happened it could remain that way but the Village of Walden code reads as soon as that non-conforming multi-family property is empty for 1 year it automatically reverts back to a single family.

Attorney Dickover – This really isn't a question and answer period, it's really time for the public to make comments to the board and I would caution to not in fact respond to the questions. You can continue to take comments from the public so you can then entertain them in your decisions making process.

Chairwoman Pearson – The board has received an email from Mr. Frank Appell, 59 Scofield Street, Apartment #2 – I appreciate that Mr. Lin is trying to improve the property at 61 Scofield Street. Clearly the Village of Walden Zoning Board had a quality of life issue in mind for tenants when they established the minimum residential floor area of 900sf. Mr. Lin is asking for a reduction of 96sq from the minimum, how will that affect the quality of life for the prospective tenants, how will the space reduction be made and where doesn't entertaining this request negate the original intent. I have lived at 59 Scofield Street for 25 years and have experienced numerous tenants at 61 Scofield Street. The majority of the tenants were problematic in one way or another. It was not always easy or possible to contact the owners or to address grievances to ask to assistance with the problems and situations presented. Mr. Lin with a Washingtonville address I assume he will be an absentee landlord and past problems could be revisited. My perspective is if it were to be a single family dwelling it could potentially have future problems, however I fully realize that a problematic single family could be equally unpleasant and just as troublesome. Thank you, Frank Appell.

Dan Svarczkopf, 64 Valley Avenue – Does Mr. Lin have estimated costs for the renovations to turn it back to a single family?

Ta-Kang-Lin – I can't do it. The whole second floor will have to be demolished. The fireman did a good job smashing all the windows, glass in the doors.

Chairwoman Pearson – You would have to renovate it away for someone to live in an apartment there, what would be the difference?

Ta-Kang-Lin – The second floor is intact, half the windows are gone. Once you open up the ceiling to put in stairs then all the walls upstairs would have to be re-laid. As a 2 family the stairway is on the outside now. I don't have to touch the second floor, it is in good condition. The first floor and the basement is what has the fire damage; to bring it back to the original form the stairway would be inside the house.

Chairwoman Pearson – Are there any other questions/comments from the public? None noted.

**Member Moore, made motion to close the Public Hearing
Seconded by Member Raymondo, All Ayes, Motion Carried**

Attorney Dickover – This is an Unlisted Action, for a short form EAF we can review that at this time.

**Member Raymondo, made motion to declare Lead Agency for SEQRA, this application is an
Unlisted Type Action Seconded by Member Moore, All Ayes, Motion Carried**

**Attorney Dickover – Reviewed the short form EAF date August 3, 2016 we can amend this as we
go and The Board can make its determination. (The Short Form EAF was reviewed by the Board
and changed/corrected accordingly by The Board)**

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Attorney Dickover – Madam Chairman Based upon those answers a member of this Board could resolve to adopt the resolution making a Negative Declaration with respect to this project. A member of the Board can make that motion.

**Member Raymondo, made motion to approve the resolution
Seconded by Member Moore, All Ayes, Motion Carried**

Attorney Dickover – Madam Chairman based upon that finding the board if you are so inclined now could review the 4 factors associated with Use Variances applications pursuant to Village Law, 7-712B.2A if you are so inclined to do so this evening.

Chairwoman Pearson – For a Use Variance the board has criteria we have to go by.

Use Variance;

1. **Cannot realize a reasonable return substantial as shown by financial evidence** – The board hasn't seen a lot of financial evidence at all. We hear that it's going to cost a lot to do it but the board hasn't been shown how much it's going to cost. The amount it would be, whether it is feasible or not. We look for your financials, where you're at. We struggle with that because you have to give the board that information for the board to make that decision.

Ta-Kang-Lin – We have to buy in cash and we have been borrowing since March to do the renovations. We are borrowing from friends. It has been so many months and we are getting very nervous. It's a big job.

Chairwoman Pearson – I understand but the board has to see financial paperwork. You just can't tell us that it's going to cost a lot of money. We need to see the cost that you have, cost going in what you think it's going to cost fix it. That's our responsibility as a board to know so that we can make the right decision for this community.

Member Raymondo – You need a written estimate of what it is going to cost to repair it.

Ta-Kang-Lin – This time is killing the house and is killing me, because the plumbing is done and winter is here and all the pipes are going to brake again. It's going to take a lot of time, I bought it in March 2016 and started in April and halted the job until now. We've paid taxes and water bills.

Chairwoman Pearson – After you purchased the home you received a letter from Building Inspector Stickles that it was a single family home. You did this work before you received the letter from him?

Ta-Kang-Lin – I started gutting it because it was such a black smoke in the first floor, it had a lot of garbage, a lot of glass. Then the building department gave me a letter saying we needed a work permit, so I went for a work permit, and then Building Inspector Stickles asked did I know that it was a one family. That was the first time I heard it.

Chairwoman Pearson – There was a letter to the realty company in October 2, 2015 about a one family building from the building inspector. Your real estate agent I'm not sure understood what was really happening.

Ta-Kang-Lin – I did work then received the letter from Building Inspector Stickles.

Chairwoman Pearson – Because you were doing work without a permit.

Ta-Kang-Lin – Right, I was gutting the house and doing the boilers and ordering windows.

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2. **Alleged hardship is unique and does not apply to substantial portion of district or neighborhood** – It is a R5 single family neighborhood. Yes, it was a 2 family at one time but again the law it reverts back to a single family after 1 year.
3. **Requested variance will not alter essential character of the neighborhood** – I can't say that it would, it has been a 2 family and reverted back to a single family.
4. **Alleged hardship has not been self-created** – That's a hard one. If you don't have people telling you the right information when you purchase a piece of property, we are not responsible for that as a board or have control of. Everything that is listed does state single family home; building permits would have been for a single family home. So those issues would have been something in my eyes for a single family home, after it reverted back in that year.

Ta-Kang-Lin – But why did it revert back? In the city they don't do that.

Chairwoman Pearson – Everyone has their own codes and laws. When a single family has changed to a 2 family and when we find that they are empty the law states after 1 year they revert back to a single family.

Ta-Kang-Lin – This is almost borderline gray area?

Chairwoman Pearson – We still have to go by the 4 criteria's. That is this board's responsibility to the Village of Walden.

Ta-Kang-Lin – Please let me keep this 2 family. It's going to be very hard for me to let go and I don't know who is going to take of it. I'm doing the job, I'm here and I will fix it. The next person I don't know, I don't even know who will take this mess from me.

Chairwoman Pearson – Are there any other questions/comments from the Board?

Member Wesenberg – My heart brakes on this, but I'm looking at the criteria and it's hard to say yes.

Member Moore – I agree with Member Wesenberg and empathize with the situation and the human interest of the story I really feel compassionate about what the applicant is going through. Maybe there are ways you can still use it as a single family without doing the internal staircase. Live in the second floor it's still a single family. There are options of construction loans; there are a lot of other options. But I would have to make a motion that I would have to deny your application, based on the criteria.

Chairwoman Pearson – You will have to go to the building inspector to see what you need to do and can do to change it back to a single family. The board cannot guide you in that, it's not our job, and we don't have those answers.

Member Moore, made motion to deny the application based on the criteria

Seconded by Member Wesenberg, All Ayes, Motion Carried

Roll call vote;	Chairwoman:	Rebecca Pearson	Yes
	Members:	Faith Moore	Yes
		Carolyn Wesenberg	Yes
		Gregory Raymondo	No
		Mary Ellen Matise	Yes

Chairwoman Pearson – We're sorry, thank you for coming before the board. Good luck.

B. FORMAL APPLICATIONS:

B.1 61 Scofield Street, Use Variance

C. DISCUSSION ITEMS:

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
October 06, 2016
Nancy LaMancuso
Zoning Board Secretary