

Village of Walden  
Zoning Board of Appeals Meeting  
November 3, 2016

Chairwoman:	Rebecca Pearson	Present
Members:	Faith Moore	Present
	Carolyn Wesenberg	Present
	Gregory Raymondo	Present
	Mary Ellen Matise	Present
Alternate:	Dan Svarczkopf	Present
Building Inspector:	Dean Stickles	Present
Village Attorney:	Robert Dickover	Present
Secretary:	Tara Bliss	Present

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

**1. APPROVAL OF MINUTES:**

**Member Raymondo made a motion to approve the October 6, 2016 minutes. Seconded by Member Matise. All ayes. Motion carried.**

**2. BOARD BUSINESS**

**A. PUBLIC HEARINGS:**

**A.1 25 South Montgomery Street**

**B. FORMAL APPLICATIONS:**

**B.1 25 South Montgomery Street, Use Variance**

Chairman Pearson reported that 37 cards were sent out and we had 4 returned to sender and 33 whites and 24 green cards for this hearing.

**Member Wesenberg made a motion to open the Public Hearing for 25 South Montgomery Street, Use Variance. Seconded by Member Raymondo. All Ayes. Motion Carried.**

John Fallon, Attorney for the applicant, stated that the house is currently designed so that each floor has an apartment. Each have separate entrances, bathrooms, kitchens etc. His client understands that it has been used that way for several years. When he went to check it was in the R3 Zone, which is a single family zone. Would like it converted into a 3 family house which it has been used as and be somewhat consistent with the other properties along S. Montgomery Street. Even though it is a single family zone there are several 3-4 family properties and commercial properties as well. This would be consistent with the way it has been used and developed. Applicant will go over the financial aspect of a single family vs a 3 family

Raymond Zingale, owner, Pine Bush Realty Properties and representative to the applicant. He sold the owner this property and he is also the property manager for the owner on other properties he owns. The applicant also owns the old Reardon property, 42 S. Montgomery Street, which he has completely renovated and done a great job like he is looking to do at this property however the numbers don't work as a single family. He would be losing \$503 per month as a single family but would gain \$563 per month as a 3 family. The property was a bank foreclosure and was purchased for \$25,000. It was built in 2000. The foundation has had substantial work and it is a solid building. The owner knew it was single family property when he bought it, we just thought it was a just a paperwork change. Obviously it's been an illegal 3 family for some time. There is one water meter, one furnace, and one electric meter but he is willing to change it to all be separate. Legally it was a single family with 3 kitchens etc.

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Building Inspector Stickles stated the house was built and sold as a single family home throughout its history.

Chairwoman Pearson added that everything she found from 1961 on all states single family.

Mr. Zingale stated that the owner bought the property in 2015. He was focusing all of his resources on 42 South Montgomery due to the fire but that one is now all rented out except for the downstairs so now he can focus on this property. He handed out information showing the 3 family option and single family option to the Board.

Chairwoman Person asked how much work is needed to make it livable.

Mr. Zingale replied roughly \$50,000-\$75,000 for the whole project. All the decking needs to be replaced which is a good chunk of change to replace. He added that each level has egress on both front and back of the property. He also purchased the property in the back which has an easement off of Oak Street behind the deli. Currently has a basketball court and a shed and a piece of pavement. There is a curb cut and parking for 2 cars in the front of the property.

Building Inspector Stickles stated that years ago it got approved for 2 cars in the front through the ZBA as a single family home.

Mr. Zingale stated the owner is willing to give that up and do all the parking in the back.

Member Wesenberg stated that his handout says the mortgage payment is based on \$125,000 but thought you said it was purchased for \$25,000.

Mr. Zingale replied that the owner is planning on borrowing the rest.

Chairwoman Pearson asked some questions about the application. Letter A, asked about parking and she didn't realize he bought that property in the back so that might answer her question about that.

Mr. Fallon replied that he bought that property this March from the County as part of a tax sale. House was a foreclosure purchase in 2015.

Chairwoman Pearson asked about Letter D where it says premise is already built for 3 family but everything she has researched says it has always been a single family home. Letter E asks to explain the difficulty in zoning and say that the hardship is not self-created which isn't filled in.

Mr. Fallon replied that the difficulty is due to financial reasons, which is the main difficulty.

Mr. Zingale added that the reason that he said it was used as a 3 family, while he does understand it was done illegally, each one is set up as a separate apartment and if it's sold as a single family it will be set up with 14 bedrooms with 3 kitchens. It's an unusual house to sell from a marketing perspective.

Chairwoman Pearson replied but people have bought it.

Mr. Zingale stated that he can't tell you who did the illegal use but each level is an apartment and is huge. The heating system is in the basement portioned off from the apartment in a separate location.

Member Moore stated that the listing she has says it is a 6 bedroom, 3 bathroom with a total of 2950 square footage without the basement. So each apartment is 1,410 which is over 900.

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Mr. Zingale state that they are all approximately the same. There is no interior stairway between 1<sup>st</sup> and 2<sup>nd</sup> floor. There are exterior stairs on the side of building. Each one has 3 bedrooms and all bedrooms are generous in size, not small.

Chairwoman Pearson has a Certificate of Occupancy from 2001 states it is a single family from the ZBA approval. Also states there is no apartment in the basement and it is only to be used for storage. Whatever happened was not supposed to happen in that house.

Serra O'Donnell, 2 Northern Avenue, asked if the financial difficulty was based off of \$25,000 would there still be a financial hardship.

Mr. Zingale replied no, but no one would live there in the condition it is in.

Chairwoman Pearson confirmed we received the signature page of the EAF. The form states that they would like to continue to operate as a legal 3 family house, but it wasn't legal to begin with.

Mr. Fallon replied that we understand that but we are saying we are looking for permission to do that, legally. We never operated it as a 3 family. We would like to operate it as a 3 family.

Mr. Zingale stated it has been vacant for at least 2 years but hasn't lost use.

Building Inspector Stickles confirmed it is a single family home in a single family zone.

Chairwoman Pearson stated that on page 2, #5 it asks if it is consistent with the adopted comp plan, which should be no. #8 asks if public transportation is available and that should be yes as the bus station is around corner. The habitat should be listed as suburban/urban. Your bargain and sale deed has the wrong SBL on there.

Mr. Zingale replied it is correct on the survey.

Attorney Dickover stated we don't need to worry about that.

Dave Barnhart, 22 Center Street, is another neighbor with a 2 family duplex. He has done the work at 42 S. Montgomery Street and he can attest to the fact that the owner does put money into his properties to make it right, he might not be the easiest to work with at times, but he's never really seen that before. He does go the mile to make the property right. He likes what he's doing with the community and neighbors feel better about it too and happy seeing it done and that he's a good landlord. He has spared no expense and it shows.

Mr. Zingale added that from the perspective of a real estate agent the units in 42 S. Montgomery Street used to be in terrible shape and were rented for \$850 each and now they are \$1200-\$1800 each which speaks to the quality of the work he's done there.

Chairwoman Pearson asked about the financial worksheet he provided which shows as a 3 family he would be renting them out for \$1000 per month and as a single family only \$1,450.

Mr. Zingale replied it would be less square footage. He could have more on a 3 family but that \$1000 is on the lower side.

Mr. Barnhart asked if this was denied, would they have cause to remove the living space in basement and convert back to storage as the CO states from 2001. He would need to factor that cost into the renovations if that is the case.

Chairwoman Pearson replied yes it is a single family home.

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Member Moore asked if there is a full kitchen on each floor.

Mr. Zingale replied yes. Some were stolen from the house but the parts are there. Some of the cabinetry and appliances were stolen. If it was a single family only putting in 1 kitchen not 3.

Member Matisse asked why the pictures look so nice.

Mr. Zingale stated they are old. All the carpets are gone, it is missing the soffit opening to the attic not sure what is up there creature wise. Decking out back has to be replaced so either way there is a lot of construction costs.

Member Matisse asked why the decking becomes important, is it because the upstairs needs an egress but as a single family it doesn't.

Mr. Zingale stated there are 2 sliders on each floor so you need a deck. Joists are good just the decking was not done well.

Member Moore stated that based on the guidelines we follow to approve a variance she does not see any financial evidence that it cannot produce a reasonable return. I see he will make more money but based on what we follow, she doesn't feel there is enough financial evidence. Is there anything else you can give to show he can't get a reasonable return?

Mr. Zingale replied there are profit dollars either way. He may not fix it up if it's a single family and you don't know who will buy it and whether they will fix it up correctly. He is looking to make it better in the front and not sure if he is planning to sell the back property as a package deal. He is willing to give that up forever to whomever buys that property. It's dangerous the way it is no one can dispute that. The profit margin is tiny and likely not worth it to do the work but his concern is if someone with less resources buys it, will it look as good.

Member Matisse understands but that is not what they have to go by. There are 4 criteria you need to meet. If he sells it as it, will he double what he bought it for?

Mr. Zingale replied, likely. The question is you don't know who will buy it.

Member Matisse stated that it may be a bargain for someone if they want to live in it themselves.

Mr. Zingale added that the decks have to be done no matter what. Demo would be about \$50,000.

Chairwoman Pearson stated that the referral from the County didn't come back yet.

Attorney Dickover stated you need to wait for that. He would suggest continuing the public hearing until next meeting to have the County weigh in. In the meantime the applicant can submit anything further for the Board to consider.

**Member Moore made a motion to continue the public hearing for 25 S. Montgomery Street, Use Variance for Thursday, December 1, 2016 at 7:30pm or as soon thereafter as the matter could be heard. Seconded by Member Raymondo. All ayes. Motion carried.**

**C. DISCUSSION ITEMS:**

Chairwoman Pearson reminded everyone to get their training done.

Member Moore added that the County is working on putting out another training for the end of November and there are webinars available too.

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Building Inspector Stickles stated that the Interpretation that was requested of him for 108 Ulster Avenue has been returned and they are now requesting an interpretation of his interpretation. They will be coming before you at a later date.

Member Moore asked about a potential Tri board meeting.

Chairwoman Pearson replied she spoke to the Mayor and she doesn't think they are necessary as any issues will be brought before her which is how she left.

Member Matisse has an issue with how the County lists properties vs the Town. Why don't they contact the Village? She feels this Board should send a letter to the County chairperson. Feels it needs to be dealt with as they will keep getting information wrong. Not this one but the last 2 were wrong. There is a lag between the County and Real Estate Agents aren't paying attention.

Chairwoman Pearson replied that the Mayor talked to her about that. She said she will get a list of Real Estate Agents in the area and talk to them or write a letter to them so we can get them information on the process.

Attorney Dickover stated that it is a buyer beware market at this time. Don't feel sorry for the purchasers as they have attorney's that should be doing their job and it's not your job to fix it.

**D. INFORMATION ITEMS:** None

**E. CORRESPONDENCE:**

Chairwoman Pearson received correspondence from the new Secretary, welcome Tara, about using the big room upstairs and condensing the minutes. Speaking for the Board she replied they like the smaller room as it's more comfortable for the applicants. She likes the minutes to be more detailed in the event an applicant doesn't like what we say they can go to the Board and details will give them the most information. She like the way they were done before. Not word for word but comfortable with the way it was done already.

**3. COMMUNICATIONS:** None

**4. EXECUTIVE SESSION:** None

**With no other matters in front of the Zoning Board of Appeals**

**MEETING ADJOURNED: 8:24 pm**

RESPECTFULLY SUBMITTED  
November 3, 2016  
Tara Bliss  
Zoning Board Secretary