

Village of Walden
Zoning Board of Appeals Meeting
March 2, 2017

Chairwoman:	Rebecca Pearson	Present
Members:	Faith Moore	Absent
	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

Chairwoman Pearson - Called the Zoning Board meeting to order at 7:33pm with the Pledge of Allegiance.

1. APPROVAL OF MINUTES:

Member Matise made a motion to approve the February 2, 2017 minutes. Seconded by Member Wesenberg. All ayes. Motion carried.

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

B. FORMAL APPLICATIONS:

B.1 108 Ulster Avenue, Interpretation

Chairwoman Pearson explained she received an email from the attorney today about a letter that he received and she feels we should at least entertain it before we move any further. It is talking about incidences at other homes and the public hearing is closed so we either have to reopen a public hearing or not deal with it at all.

Attorney Dickover explained that if the Board wishes to consider the information that is contained in this correspondence, you have to do that in the context of a public hearing. You have closed the public hearing so to do that if you wish to entertain it or consider it, the applicant is entitled to respond to it and it has to be done in the context of a public hearing. If the Board wants to entertain it and ask the applicant questions and have a response you require a motion to reopen the public hearing. In order to reopen the public hearing it has to be noticed and published so it is not something you can do this evening.

Member Matise asked if could be noticed electronically.

Attorney Dickover replied no, it has to be published and mailed.

Member Raymondo asked what the circumstances of the email were.

Chairwoman Pearson replied that the circumstances were incidences at another home from a police department and what was happening. She does not know if it will change your mind but she feels you might want to hear what was happening in some cases and have the applicant be able to respond as we don't know, it could have been a bad neighbor or other issues going on, we don't know what was going on then but it will give everyone a chance to listen and hear what was happening. Up to the Board to make that decision to reopen the public hearing or not.

Member Svarczkopf asked if it was another PEOPLE Inc. home.

Chairwoman Pearson replied yes.

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Attorney Dickover explained that it would require 3 members to vote yes to reopen the hearing.

Chairwoman Pearson stated we would do a roll call vote. She further explained that this comes under the first public hearing so we need to do something before April 5th so we have to come together before our next meeting and be sensitive to time as well.

Attorney Dickover explained that if the public hearing is reopened his opinion is that it would restart the clock another 62 days from the closure. He would not urge you to do that he feels the applicant is entitled to a prompt resolution of this matter. His opinion is that it should be done expeditiously and not delay it any further.

Chairwoman Pearson asked if this was the piece of information that everyone wants to hear, would we want to call in other people such as the Mayor, Village Manager, the Police Chief from our situation; would that be something we would consider at that time.

Attorney Dickover replied that he thinks you have to decide if you are going to reopen the hearing you need to decide what is going to come from that and how it is going to be handled. You have subpoena power if it is required to call in the Village Manager who provided this information to us, so be it. You may do that or subpoena others who might have that information. He thinks we should share it with the applicant if you are going to in fact open this hearing so they have a reasonable opportunity to respond to the concern.

Member Raymondo made a motion to reopen the public hearing for 108 Ulster Avenue, Interpretation. Seconded by Member Wesenberg.

Roll call vote:	Chairwoman:	Rebecca Pearson	Yes
	Members:	Carolyn Wesenberg	Yes
		Mary Ellen Matise	Yes
		Greg Raymondo	Yes
		Faith Moore	Absent
	Alternate:	Dan Svarczkopf	No

4 Ayes, 1 No, Motion Carried

Chairwoman asked everyone's availability for the hearing.

Attorney Dickover asked if we can get publication in time for next Thursday.

Building Inspector Stickles stated it would have to be the Record.

Secretary Bliss stated it oftentimes takes about 2-3 days to get into the Record, which might not be until Monday.

Rebecca Valk, Attorney of the law firm Mackey, Butts, & Wise LLP representing the applicant, noted that for public officer's law if a meeting is scheduled for less than 7 days, which technically we are now less than 7 days, it's as much notice as practical, so publication in the paper is not as essential.

Attorney Dickover responded that publication if we have time to do it is still required.

Ms. Valk replied that if it is practical, but she doesn't think it has to be done by Saturday, is her point.

Attorney Dickover stated that he would say in response to that is it would be at your risk, whatever may come from this, if some was to challenge the notice, it would be at your risk to not adhere to it. That is why he is advising the Board to try to get the publication so you don't have to deal with that.

Ms. Valk replied that she is prepared to take that risk given the source of the information and is prepared to address that given the notice that was given well in advance of the original hearing. She is prepared to address that risk.

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Attorney Dickover stated that we can get a notice prepared first thing in the morning.

Building Inspector Stickles stated he can send it first thing, but he is not sure of when they will print it.

Secretary Bliss stated that the sooner you send it the more likely they will get it in sooner, probably Monday or Tuesday at the latest, but you won't know until tomorrow. Walkill Valley Times would only give one day notice.

Member Svarczkopf added that if we aren't sure if Member Moore will be back, and he can't be there on Thursday, then we don't have a quorum.

Chairwoman Pearson replied we would be good. So we are saying we are not going to do it because of the posting even if the applicant is fine with that.

Attorney Dickover replied he would prefer to see you pick the next available date to do the posting.

Chairwoman asked about March 13th.

Ms. Valk stated that unfortunately her client who would need to respond to the allegations that have been brought at the last minute against her client is the one who has the information to challenge them and he is not available that date.

Chairwoman Pearson asked about the 14th or the 15th.

Building Inspector Stickles replied the 15th is a Planning Board meeting.

Chairwoman Pearson asked if they had a large agenda, perhaps they can do after the Planning Board meeting maybe at 8:30pm.

Building Inspector Stickles replied it would be a light agenda.

Attorney Dickover stated that he would suggest 8pm as they haven't had a long meeting in a long time.

All agreed.

Member Wesenberg made a motion to set a public hearing for 108 Ulster Avenue, Interpretation on Wednesday, March 15, 2017 at 8pm or as soon thereafter as the matter could be heard. Seconded by Member Raymondo. All ayes. Motion carried.

Ms. Valk asked for a copy of the information to be given to her this evening.

Chairwoman Pearson replied she did not have an extra copy but that we can get her one.

Ms. Valk asked if one could be emailed first thing in the morning so that she can begin if there is going to be witnesses we would like to have our own witnesses prepared.

Chairwoman Pearson stated we wanted to talk about that with witnesses and having the person who wrote the letter and do we need to go with that and have them come before us and have more information.

Attorney Dickover replied that he felt people that have the information should be here and ready to speak to it.

Chairwoman Pearson stated it talks about fiscal stress on the Village and the Police Department so it would behoove us to have the Police Chief here. We should also have that on record if that's the letter that is written.

Attorney Dickover stated that he would think probably the Police Chief and Village Manager. We would make an inquiry and if they require a subpoena he will present one for your signature. If not we could ask them to be here at that time.

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Chairwoman Pearson asked if they are not able to be here someone else like a Sergeant could come.

Attorney Dickover stated that someone who has the information from the entity.

Ms. Valk asked if she would have the ability to cross examine these witnesses.

Attorney Dickover replied we will deal with that when the time comes.

Ms. Valk stated that she anticipates given the information you are alluding to that it would be something she would be prepared to do that evening.

Attorney Dickover asked if the Board has received any other information on this that you want to discuss with yourselves this evening or do you want to proceed with this other piece of information first.

Chairwoman Pearson asked if the Board could go into attorney client on this part of it or not; on what we received from you.

Attorney Dickover replied that he didn't think that would be appropriate at this time. He stated that if the Board wished to adjourn for an attorney client session if you wished to discuss the laws as it applies to the application, certainly the applicant has put some legal issues in front of us and if you have questions about that we can adjourn for an attorney client session.

Chairwoman Pearson stated she would like that to know how it applies to this case as an attorney client session.

Member Raymondo asked about the letter from the insurance company.

Chairwoman Pearson clarified the notice of claim; we are not sure where that is right now so that's still in this mix.

Member Matise made a motion to enter into an attorney client session to discuss the law as it applies to this case for 108 Ulster Avenue, Interpretation. Seconded by Member Raymondo. All ayes. Motion carried.

Member Svarczkopf made a motion to close the attorney client session. Seconded by Member Raymondo. All ayes. Motion carried.

Member Raymondo made a motion to reconvene the regular meeting. Seconded by member Svarczkopf. All ayes. Motion carried.

B.2 160 Old Orange Avenue request for extension

Chairwoman Pearson explained that the applicant, Mr. Oni-Eseleh, asked for an extension, did everyone get the letter.

Building Inspector Stickles stated that he is getting his maps ready to go before the Planning Board first so he has asked for a four month extension.

Member Svarczkopf made a motion to adjourn the hearing for 160 Old Orange Avenue; Area Variance until the July 2017. Seconded by Member Wesenberg. All ayes. Motion carried.

C. DISCUSSION ITEMS: None

D. INFORMATION ITEMS:

Chairwoman Pearson reminded everyone to get their trainings in by April.

E. CORRESPONDENCE: None

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3. **COMMUNICATIONS**: None

4. **EXECUTIVE SESSION**: None

MEETING ADJOURNED: 9:02 pm

RESPECTFULLY SUBMITTED
March 2, 2017
Tara Bliss
Zoning Board Secretary