

Village of Walden
Zoning Board of Appeals Meeting
September 7, 2017

Chairwoman:	Rebecca Pearson	Present
Members:	Carolyn Wesenberg	Present
	Gregory Raymondo	Absent
	Mary Ellen Matise	Present
	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 7:30pm with the Pledge of Allegiance.

1. APPROVAL OF MINUTES:

Member Matise made a motion to approve the August 3, 2017 minutes. Seconded by Member Wesenberg. 4 ayes and 0 nays. Motion carried.

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1 34 Capron Street, Use Variance

Member Matise made a motion to open the public hearing for the 34 Capron Street, Use Variance. Seconded by Member Wesenberg. All ayes. Motion carried.

John Fallon, attorney for Niko Marku; owner of 34 Capron Street, reported that they mailed out 74 notices and got back 50 green cards with 3 returned unopened. The Board counted and confirmed.

Mr. Fallon explained the property has been abandoned for the last 5-6 years. It was originally a multiple family residence and for years it was a 6 family apartment building prior to being abandoned. His client is proposing to fix up the premise as it is somewhat unsightly and refinish the exterior as well and make it have 3 apartments on the inside. They would be large apartments and will become more suitable than what was there when it was a 6 family apartment building. They basically had 1 bedroom in the past with constant turn over there. The 3 apartments would be primarily rented to families. His client lives in the Village has lived here for the last 9 years and owns a business in the Village. He will see it every day and will not be an absentee landlord. They have an estimated cost of about \$210,000 to repair the property. He already has at least an \$80,000 investment in the property between the purchase of \$71,000 to plus expenses for a total of \$80,000. He can submit appraisals for similar comparable properties in the area both single family and multi-family houses and basically none come anywhere close to even \$200,000. No one would be able to purchase the property and flip it. His client is interested in keeping it as a show piece for the Village. There are other houses in the general area that are multifamily and it is located across from Millspaugh Funeral Home and there will be ample property. Under all the circumstances this would be the best usage of the building. The house is too large to make a reasonable single family house. Only reason we are in the situation we are in is that it became vacant because the people who owned it didn't keep it up and had the house foreclosed on. If it hadn't been foreclosed on it would be able to be a 6 family residence.

The Board asked to see the plans, proposed parking areas, and asked if there is a yard for people.

Jonathan Cella of KC Engineering representing the owner explained the proposed plan he submitted shows there is ample parking in the rear of the building. There is currently a gravel parking lot now with adequate parking.

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Niko Marku, owner, explained there is a yard in the back and parking in the back. There is parking for a lot more than 3 families. There are 9 parking spots and the yard is on the side and in the front. The property is the biggest on that road.

Mr. Cella continued that there are two existing entrances one on the right side that will service 2 apartments. Entrance to the left side of the property below the tower is an open porch will service the other first floor apartment. He pointed out the entrances on the map.

Chairwoman Pearson asked if there was an exit to the yard in the back of the building.

Mr. Cella replied that the plans we have proposed demonstrate that it would meet the zoning for the 900 sq. ft. of apartment area required. 2 of the apartments would have 970 sq. ft. with the 3 being 1,100 sq. ft.

Chairwoman Pearson asked if they had to have a front and a back egress on the first floor.

Building Inspector Stickle replied that an egress can be a window for first floor apartments.

Mr. Cella stated the fire escape there is existing which will service the 2 story proposed apartment. The building will be all up to international building code.

Member Matise asked if they could describe the condition of the building.

Mr. Marku replied that it is savable today but isn't good. He can't do anything to the house before this decision. It needs a roof right away.

Mr. Cella replied there are 6 kitchens, 6 bathrooms, holes in the walls.

Chairwoman Pearson asked if it had a full basement.

Mr. Cella replied yes.

Mr. Marku added that it says it was a 6 family residence but there were really 8 living areas there as they used the basement and the attic as living spaces. Kind of like those mix use but we don't need the basement or the attic. The basement will have a maintenance room with 6 furnaces there, 6 electric boxes, etc. It will cost a lot to fix it because of that as it was a legal 6 family, non-conforming property until it lost its use. The condition is as you can imagine a vacant house to be 5 years ago. He really wants to save the house from his heart not just a business. It is not the first house he bought, he has purchased 2-3 house and fixed them up it's from its heart. That house would never sustain a single family with 6,600 sq. ft. It cost almost \$300,000 to fix the whole house. Other option is to garbage the house but that's not a good option either. It is a very historic house and there are no other houses in Walden like this. It is very unique. It is not like a single family house turned into a 2 family house when you go in you physically forget to come out; you forget how big it is. He is going to try to make it a real 3 family house with 3-4 bedrooms and a family renting it. It is not going to be just a single bedroom it's going to be a family with a nice kitchen not just one bedroom. Not going to be a single bedroom the way it used to be. Not even business side just his opinion. That's why he choose to take a chance and so did the guy who had it before him.

Chairwoman Pearson asked if he knew it was a single family home when he purchased it.

Mr. Marku replied yes, he knew the story and knew why he lost it but he took a chance to fix it.

Chairwoman Pearson asked if he was advised before he bought it that it was a single family.

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Mr. Marku replied yes, he knew the story but it makes sense to fix it.

Chairwoman Pearson asked if it had a full basement all the way through, the full length of the house.

Mr. Marku replied yes, not under the porch area.

Chairwoman Pearson asked if the attic is full.

Mr. Cella pointed on the map that there was a walk up attic and stairs to the tower as well and people were living up there as well.

Chairwoman Pearson asked how they would be assured in the future that people won't be living up there, say if you sell to someone else?

Mr. Marku said the plans only allow for the landlord to get to. Will be completely blocked to the tenant.

Mr. Cella added that there is an outside entrance only, can't get to that area from the apartments. There is a door and flight of stairs on the inside to go to the basement but we are eliminating those stairs so there will be no access from tenants, just landlord. There is a second flight of stairs to the attic door with a lock on it and will not be used as storage for the apartment there. The 3rd floor tower will be for unfinished storage. He has more than enough sq. ft. than he needs to fix without the basement and attic spaces which is why they felt this was a fair proposal; coming in with 3 apartments.

Member Matise asked if the layout that was given is reducing and taking out 3 kitchens and 3 bathrooms.

Mr. Marku said he may be adding a laundry room to each family as there is physically bathrooms and kitchens and existing plumbing all over the house. It is pretty much everywhere.

Member Matise asked if some bedrooms will be constructed or are they using existing rooms.

Mr. Cella replied we are going to be reusing as many walls as can but making it the way it is set up now it doesn't flow so we definitely have to more walls. We will be closing some walls, and putting some walls in.

Mr. Marku added that in some areas there are 2 bedrooms that will become one.

Mr. Cella stated that the international building code requires a 70 sq. ft. minimum which we are above all that.

Member Matise suggested instead of making it 4 bedrooms they could make it 3 bedrooms.

Mr. Marku said he had the same opinion but these plans are just to show that the layout works. Looking for 2-3 bedrooms for a nice small family with 2-3 kids. His plan was to come up with the plan not the way that he wants it. It's the way the house lets it be.

Chairwoman Person has concerns over a shared yard and size concerns. 3 families with 2-3 kids are not going to sit in the front yard they are going to sit in back. Part of it is parking. Is there adequate street parking will you be split it between families? How does that work?

Mr. Marku replied that the yard is huge; it takes him a half hour to cut the grass. It's big and right now there is gravel because of the mud. He couldn't invest anything in the house until this decision. There is a side yard and a front yard.

Donna Penny said it is an 'L' shaped yard but it is quite deep.

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Member Matise added that there is always potential to put a fence in the front yard and it becomes usable for the tenants.

Mr. Marku said he would definitely consider that. It's a big yard. The smallest house on the road you can put 3 on the property.

Member Svarczkopf asked if the contractor could give a rough estimate to bring it back to a 1 family house. Would the renovations be about the same?

Mr. Marku replied it would be \$210,000 for a 1 family and \$230,000 for a 3 family. The difference is the 2 more kitchens.

Member Svarczkopf relied you are never going to get that for it.

Chairwoman Pearson asked if he had an idea what he would be renting the apartments for.

Mr. Marku replied honestly he likes to rent through real estate people because they do back ground checks and they say about \$1,300 per apartment. That doesn't include utilities. It includes water and garbage. He is currently paying the water and garbage and he doesn't even have a can on the property. The taxes cost so much just to maintain it vacant the way that it is. He would love to bring it back to life. It's a historic house.

Member Matise said it is a historic house because it was built by Seth Capron probably around 1850. It is not on the registry.

Mr. Marku reiterated it is built very unique.

Member Wesenberg commented that you keep saying family. Is there a stipulation that can be put on the rental that it's for 3 families in the apartments? She has 7 20-something year olds living in the apartments next to her so that is not necessarily families.

Attorney Dickover thanked her for the question and said he would reserve his answer for later but not tonight.

Mike Stenko, stated he lives across the street for the property and has lived there for about 30 years. He was there when it was first made a 6 apartment building and it was way too much. His issue is with on street parking. During the winter time they don't plow straight close to the curb, it is usually about a foot away from the curb making it difficult to get in and out of his driveway. He would like to see no parking in front of the building as it cramps things when snow gets on the street there. There is parking in the back it had 12 cars in the back at one point. He had friends that lived there so he's been in there many times.

Charles Brod, 30 Capron Street, commented that no parking in front of that building would affect him because then they would park in his spots in front of his house. He doesn't want a no parking situation because he doesn't want them to park in front of his house. He agrees with Mrs. Wesenberg and is concerned about 7 20-something year olds living in one apartment there rather a family. What does a family really consist of, it's not always a wife, husband, and 2 kids. He is also concerned about section 8 housing also. He has lived in Walden for 17 years and that house was horrible. It was a crack house with riff raff and people coming and going at all hours of the night every day. He wants a spot to part too so what he said with the no parking won't work.

Jose Ethier, 31 Bergen Avenue, stated his house is located directly behind this property and he has been directly dealing with the on slot of issues at that house for the last 24 years he's been living there. He is a retired NYC detective so he knows a great deal about all the narcotics that took place and the raid that

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took place in that house is a direct result of his input. He has concerns about parking because he has replaced his back fence 3 times as a result of tenants or whatever backing up on the fence between our properties. Actually his retaining wall fell and shortened access to his back yard by 3 feet to build a retaining wall to put up a 6 ft. fence so that he has more direct privacy to his back yard which he hasn't used for years while there were tenants there as he had no privacy. People used his back yard as a walk way between Capron and going down to the Thruway. He at one point paid for a full fence to go across. Storms over the years knocked down a 1/3 of that fence and it has become too costly for him to put that back up just to keep people from coming onto his property. He has concerns over that. Would like to air that out tonight.

Pam Carrod, 28 Bank Street, stated she has known Niko through his business and believe him to be a very hard working individual and is concerned about houses and restoring it. She's had casual conversations with him about it. He is very well-mannered and hard working for this adventure. She thinks her neighbors will agree that if anyone can do anything positive for that house we would be in favor of that. Carolyn's question was great; what constitutes a family? For rental property in the Village, they need to be related to one another. Is there a maximum number of children that could be in the apartment? She is interested in hearing what he wanted to charge because she hoped it would be high enough that it wouldn't invite problematic tenants to live there. We have had a number of problems in the neighborhood on Capron and Bank Street. If he is charging a high enough rent that would help to screen tenants that are there and it might be very workable but is there a maximum number of people that can live there; that is an issue of concern. Something that would make the building look more attractive as it is at the far opposite of that and has been abandoned for years. The Village needs to take responsibility for how the houses looks. She thinks that if improvement could be done to the outside and if we can have a safe neighborhood and a diligent responsible landlord and the appearance to improve the neighborhood. Those are the top things on her list.

Donna Penny, 32 Capron Street, explained that she is right next door to the abandoned haunted house as the kids refer to in the neighborhood. It is very badly deteriorated. She has lived there for 46 years; she came as a young bride to that house. She was there before many houses were built. She was there when the property was subdivided so many houses could be built. She was there when the property extended from Capron to Bergen. To her understanding Mr. and Mrs. Churchill who were her neighbors before Mr. Brod came, they were quite elderly and subdivided off the Barker estate. Let's be realistic, this Village is not anywhere near ever going to get someone in there to restore that house as a single family, it's not possible. When she first move in it was a 4 family apartment back 46 years. The landlords were not residents but they came every week and took care of the property constantly it was not a problem then. After that they sold it and it went downhill until it became hang outs. She put her fence up because the apartment on the side was actually a long porch, it wasn't closed up like you see now. They had beer parties there and one tenant had 2 large husky dogs that would be out there and she had small children, so she put a fence up to keep the dogs out of her yard with her kids. The next tenants had dogs that did their business in her yard so she kept her fence up. She has been mowing that side for years because she didn't wat it creeping into her yard. You had to watch where you stepped it was that bad. Since it's been abandoned there is spray paint on their side, it's been vandalized, and there is siding hanging off. She has always been afraid if there was a fire in it that it is so close it would affect her house. It is a shame to see it like this. She has concerns about the number of people there are some not fun things. She is not sure about the parking as it's a very narrow street so if you don't allow parking there is no place for visitors to park. The only other place to park is Millspaugh parking lot or the Municipal lot and she can't walk that distance. There is plenty of parking in the house she has had her fence ruined too and she also has a collapsing retaining wall in her yard. Since Niko has bought the property he has come and asked if I had concerns. He has taken care of some trees that were causing damage to her roof. He is aware of her retaining wall also. He has been there a lot of times compared to the previous owner who you could never talk to him due to his religious beliefs. She would rather live with a landlord that takes care of the building and get it back on the tax rolls than to live next to an abandoned house and have it not fall down. It is a hazard. This one would be someone who not only lives here but he also has a business and would be easy to contact with complaints or issues.

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John Fallon added with regards to a family the Village has a definition and his client would be in compliance to that and believes that the requirements as to how many people can be there based on the square footage. He wants to keep it in good condition, he has a substantial investment in the property. To have people come and do damage to would not help him and he wants to be a good neighbor. It doesn't help him or his neighbors. If necessary to put up fencing he will do so to make sure no tenants can; at least see a barrier between properties. From a history standpoint, this property was carried on the tax rolls as an apartment until 2011 and the records of the County have it as 6 full bathrooms, 6 kitchens, a full basement and what he is attempting to do is lower the number of apartments so that it will encourage families to live there rather than 1 bedroom apartments that sometimes encourage transient people. He would be charging a reasonable rent that people will think twice before going there without knowing this would be a good place.

Chairwoman Pearson addressed a comment made about the number of people that can live in each apartment. The Code for NYS says 3-5 occupants is required to have a living space of 120 sq. ft. and the proposed square footage is a total of 250 sq. ft. If you have 6 or more occupants you have to have 310 sq. ft. of living space, not including the bedrooms. All those apartments do add up to 6 or more.

Mr. Cella commented they are that large due to the size of the building.

Member Matise asked about Mr. Marku's residence at 12 Woodruff Street, is that a single family home or do you have an apartment there too.

Mr. Marku replied it is a single family home.

Member Matise asked about the other units that he owns, the ones that are rentals, are they single family.

Mr. Marku replied he has one that is 2 family and the other he is not renting out yet as it is a 2 family that reverted back to a single family, same problem. He has no problems with the tenants. The neighbors are the most important to him. He wants to address their problems before the house. It has been vacant for 5 years and he wants to fix the issue that the neighbors are having first because he knows how much they have suffered. He wants to make sure the neighbors don't have to deal with that kind of stuff. He takes care of the property and wants the neighbors to know what kind of person that he is. He can take care of the property.

Member Matise commented that he was going to go through a real estate agents to screen potential tenants and do backgrounds. Are you going to do leases and specify how many people can live there?

Mr. Marku replied yes that is exactly right. If it says 2-3 people that would be the maximum allowed there. He will respect that as it's good for him as well. He doesn't want to spend \$300,000 and have 25 people living there. It's common sense. He understands their concern because they don't want a lot of people and the yard and stuff. The parking outside isn't an issue because this house has it inside the property. The plowing, yes.

Member Matise explained that in terms of street parking that is a Village Board issue. They are the only ones that can change the street parking, it has nothing to do with not this Board or his property.

Mr. Marku stated he would have parking in the back which would hopefully discourage it. The first thing he did was fix the parking. He took down some trees and put gravel as the first thing he did

Member Matise agreed with Donna that one of the big issues there was because of the owner it was the garbage it was a nightmare.

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Mr. Marku stated it was not maintained right the way it was he doesn't want to deal with that at all. You can come and look at his house and his other houses and it is maintained like everyone's house. It is not perfect but he really maintains the property. It's his blood not his mind and not his budget. He loves this Village. He chose to open a business in this Village. He understands the neighbors' concerns, he would have the same concerns, but he will maintain it the way it should be. That house need to be saved. The way it is right now it brings the value of their properties down if it is fixed it increases the value of everyone's houses even his home on Woodruff Street. It is not even a business as it doesn't make sense to put all that money into it but to bring it back to life and keep the character he wants to do it. It is a historic house in the eyes of people who know a building. It's a unique house no other house like this with this situation.

Mrs. Penny explained there used to be 2 tall pillars and they got knocked down by garbage trucks so there was an issue due to the size of the road which is narrow to make the swing. Of course there are no pillars now. They had a dumpster and fenced it in but she would find tons of drug paraphernalia along the fence.

Mr. Marku replied that it was commercial property because it had 6 units so it had to have a large container for commercial. Now the Village has a different set up and each apartment gets 2 containers, there would be no dumpster needed now.

Mr. Carrod asked what the plan was for the façade, will you reside it? The face of it is an eye sore.

Mr. Marku said his initial plan was to make it brand new and do 100% restore. It will need a new roof, windows, porch, and stuff but keep the siding and paint and fix it. He doesn't want to change it too much. Basically, whatever is deteriorated he wants to fix due to the house being so unique. He doesn't want to change the arches and things. The siding will be fixed back to its original state. The colors would be the same roof beige and black. Pretty much the same, new repaired and painted and maintained. They didn't take care of the vinyl siding so he would do new.

Chairwoman Pearson asked about the foundation in the back.

Mr. Marku replied that is all fixable he will have it painted and maintained to bring values of houses up. His plan is to fix the outside and make it great. He can't really save anything except the structure of the house. It needs a new roof first in order to save the structure. He doesn't want to spend money before he knows the decision.

Mrs. Penny added that is not the original foundation to the house. The side and under the porch area is an entrance to the basement that was sealed up and it's falling off, it is not structural.

Mrs. Carrod wanted to understand the process. The hearing tonight is the ZBA deciding about whether it will go from a single family to a home with 3 apartments. That's tonight. Charlie was asking about the outside of the building as it's a concern to the neighbors. Is there a process which is not the ZBA decision where Niko comes to say this is what he wants to do to the outside of the house is there a process?

Attorney Dickover replied that's the Planning Board which is also a public forum.

Ron Davis, asked when he goes and gets this property and we are talking about the siding and the facing of the house. What happens if he comes up with some sort of issue of some problems with the house? We already know the roof is in bad shape and what if he finds leaks and everything; that is his issue?

Chairwoman Pearson replied yes, that is his issue and he would have the Building Inspector and the Planning board to follow up on those things.

Mr. Davis added it is probably a permissible thing because it has been empty so long.

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Chairwoman Pearson added that he has to bring everything back to compliance with the NYS code with the Building Inspector and all that.

Mr. Marku stated that for the decision for this Zoning the Building Inspector has to check the plans and everything has to be the way the law says, it is not in his hands.

Mr. Davis commented it just knows the house is in rough shape, it's been vacant a long time.

Mr. Marku replied that everything has to go before the Building Department. Right now he can only cut the grass.

Mr. Fallon turned in the comparative comps. One is for a house as it is, one is for a 1 family house that has been sold, and one is for a 2-3 family that has sold. In 2014 Fannie Mae foreclosed on it. His client bought it in March 2017.

Mr. Marku said he knew the gentleman who originally bought it and took a chance himself. The previous owner was making plans to come before the Board and got sick and then didn't come before the Board and never finished his plans. He was going to ask for a 4 family but he got ill and sold the property losing money.

Attorney Dickover commented that the Board should probably digest the financial information it may generate some more questions for the applicant. Not sure if you want to entertain a site visit or not, perhaps you do. Not sure if Mr. Fallon wants to answer his questions tonight or if he would rather submit it in writing but this is a use variance application governed by the 4 factors test. The 4th one of course is the question of whether or not the hardship was self-generated. You have heard the applicant's response to his knowledge with respect to knowing the zoning of the property before he acquired it. He thinks that Mr. Fallon may want to address that either tonight or in writing and perhaps the same with respect to the other 3 factors. The essential character of the neighborhood, whether or not the hardship of the property is unique; we've heard some information about that unique nature of the property tonight; and the 3rd factor is whether or not a reasonable return can be realized by any use in that district.

Mr. Fallon replied that he would submit that in writing in narrative form.

Chairwoman Pearson stated she would love to have a site visit.

Mr. Marku replied not a problem, he would love that. Makes sense actually.

Chairwoman Pearson feel that if they see the space it would help with what we are talking about. She did speak to Mr. Millspaugh who is very knowledgeable on history of the Village. He remembers that building being an apartment building when he was 10 and he is now 90. So it was an apartment building then some 80 years ago after the original owners sold it. He remembers that the Superintendent of schools happened to live there and his parents were friends with them and he remembers going there as an apartment to visit them. So the building has been an apartment for that many years. Mr. Millspaugh is a lifetime resident of the Village of Walden so he has that history behind him.

Gerard Tuitt, 48 Ulster Avenue, commented that being as you have established that this was a multi-unit building then why is it now that it is a single family home.

Chairwoman Pearson replied that there is a law that states that after a year being vacant it reverts back to a single family home. Anything that sits around in a single family zone and was put into place for a lot of illegal apartment that have been in the Village for years. The reason it was put in was that so they were not put back as a two family or multifamily buildings so that you had single family homes coming back to the Village. It was done for the Village as a whole and making it a nicer neighborhood again. This home

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is a little different situation in her eyes but we can't make that decision yet because we have 4 criteria they have to meet for us to ok.

Member Svarczkopf commented that his house as already sat vacant for 5 winters and if we are going to do a site visit he would love for it to happen quickly so it's not another winter sitting vacant if possible.

Member Svarczkopf made a motion to have a site visit to 34 Capron Street on Thursday, September 21, 2017 at 11am. Seconded by Member Wesenberg. All ayes. Motion carried.

Member Matise made a motion to continue the public hearing for 34 Capron Street, Use Variance until Thursday, October 5, 2017 or the next regularly scheduled meeting of the Zoning Board at 7:30pm or as soon thereafter as the matter could be heard. Seconded by Member Wesenberg. All ayes. Motion carried.

B. FORMAL APPLICATIONS: None

C. DISCUSSION ITEMS:

Member Matise brought up changing the mailings and feels it should be presented to the Village Board about changing them to more of a computer printout system so that the cost to the applicant is lowered.

Chairwoman Pearson stated she mentioned it to Manager Revella.

Member Svarczkopf asked how it would work, we get an email.

Member Matise replied yes, the Post Office gives a print out where the people can see who received it and when it was mailed so we would still have proof and saves them quite a bit of money.

Building Inspector Stickles stated that the law says it has to be certified mailing. He asked her why she was concerned with the cost. Someone in this situation knew what he bought before he bought it.

Member Matise replied she feels it's exorbitant. She feels it is a consideration that we should have as a service to the public. It is a savings of \$2 per letter and we still satisfy the notification requirement per state law not how you do it. She believes the Village code has to be modified.

Attorney Dickover stated he doesn't think there is an issue with that at all and the Village Board doesn't have to say anything about it. You are following the ZBA regulations for posting and a mailing. You just need to provide a certificate of mailing that shows who you mailed it to and proving who got it as a substitute for the green cards. If the code specifically says that it is likely superseded by State Code.

D. INFORMATION ITEMS: None

E. CORRESPONDENCE: None

3. COMMUNICATIONS: None

4. EXECUTIVE SESSION: None

MEETING ADJOURNED: 8:54pm

RESPECTFULLY SUBMITTED
Tara Bliss
Zoning Board Secretary