

Village of Walden
Zoning Board of Appeals Meeting
May 3, 2018

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| Chairwoman: | Rebecca Pearson | Present |
| Members: | Christine Sciurca | Present |
| | Gregory Raymondo | Present |
| | Mary Ellen Matise | Present |
| | Jessica Metzger | Present |
| Alternate Members: | Michael Ciardullo | 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 March 1, 2018 minutes. Seconded by Member Raymondo. All ayes. Motion carried.

Chairwoman Pearson welcomed Mike Ciardullo as our new Alternate to the Board.

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1 11 Orchard Street, Use Variance

Chairwoman Pearson confirmed that the applicant sent out 50 mailings and got 43 returned.

Melkior Kinaj, owner 11 Orchard Street, explained that the downstairs rear unit he has had trouble finding a tenant for commercial use for almost 3 years. His realtor Dickie Baxter has advertised it and has tried everything. The unit is in square footage over ¼ of the whole building. It already has a kitchen and bathroom so the only thing that needs to be done is to be updated and turned from commercial to residential unit. It has its own entrance in the front and the rear, there is parking in the rear 24 hour municipal parking. Back yard is attached to the parking and there is also front parking on the street and the municipal parking in the front.

Chairwoman confirmed that he has owned it longer than 3 years.

Mr. Kinaj replied yes.

Chairwoman Pearson asked what was in there before; what was it?

Mr. Kinaj replied it was a lawyer office the whole first floor with 2 apartments upstairs.

Chairwoman Pearson asked what the square footage in the back was.

Mr. Kinaj replied it is 912 square feet.

Chairwoman Pearson asked if he knew when he purchased the building that it was business district.

Mr. Kinaj replied no, he thought it was mixed use with the option, wasn't sure it was strictly business.

Chairwoman Pearson asked if his realtor or the Building Inspector told him it was commercial, there was no letter sent to you saying that.

Mr. Kinaj replied no.

Chairwoman Pearson asked who his realtor was when he purchased the building.

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Mr. Kinaj replied that he used I-Realty when he purchased the building.

Member Matise asked who that is.

Dickie Baxter, Real Estate Broker, replied it is a small company and broker that does private deals that are not listed so things tend to slip through the cracks. He has come to this before and when he met Mel he advised him to come to the Board.

Mr. Kinaj stated that he is willing to do whatever has to be done, if you require an engineer or an architect, he is willing to do whatever has to be done to do it the right way. He just can't have it empty, he bought it as a business to make money and when it is empty it is not good for anyone or the town.

Member Sciurca made a motion to open the public hearing for 11 Orchard Street, Use Variance. Seconded by Member Raymondo. All ayes. Motion carried.

Member Sciurca asked if the Building Inspector had a record on if an inquiry was made about the use of the building at the time of purchase.

Building Inspector Stickles replied that at the time of purchase, the new owner was told that the first floor was for commercial use and could not be used as apartments and it has 2 pre-existing apartments on the 2nd floor.

Dickie Baxter, Real Estate Agent with Curasi Realty, explained that he has had the pleasure to work with Mel and when he met him he was inquiring on his space as he had some apartments. He went to see the apartments as we had a low inventory at the time and had a lot of back log attendance with other rentals that he had and he was very impressed with the work he had done. They are 2 of the nicest apartments around the Village. He did a nice job rehabbing them, it now has central air and the tenants he got in there are very happy. Then when he went downstairs he was curious to see the old lawyer office and to see if it was still the way it was, which it was. He was able to facilitate putting 2 lawyers in there now as he was willing to do a redesign in there but it really only worked for their budget too because of how much it costs for a certain amount of sq. footage but he kept the integrity of the building. It came out great and he worked with the Building Inspector's office and got everything done but the back has been hard pressed. Even when they were doing it he said look man he is going to have a hard time finding someone for the back space as he has a lot of other commercial space with the same hard time and he doesn't do this part time. He doesn't like to brag about buildings he can't fill. So we had Mixture was looking for a satellite office and through Tom Olley's place and he couldn't place them, he had a hearing aid client that just didn't need store frontage so just didn't work for it. It does allow itself to be good residential space but it's up to this process to come before the Board.

Member Metzger asked about the tenants in the upstairs; you have had them how long?

Mr. Kinaj replied 1 has been there for 2 years and the other 7 months.

Member Metzger asked if it was a full bathroom downstairs already.

Mr. Kinaj replied it is a half bath.

Member Metzger asked if he could put in a shower; the space is there to add the shower.

Mr. Kinaj replied yes the space is there.

Member Metzger asked if during the 3 years he has owned the property have you had a commercial tenant in that back space.

Mr. Kinaj replied no it has always been vacant. The front half is filled but not the back.

Member Metzger confirmed that really the only alteration you would have to make is the bathroom. The kitchen is a full kitchen already.

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Mr. Kinaj replied yes the kitchen has a fridge, stove, sink, counter top, and everything but he would like to update that as well as it has been there since 1970.

Chairwoman Pearson asked if it was all one space except for the bathroom or is there another room for like a bedroom.

Mr. Kinaj replied it is not one open area, it is broken up and has doors. It has 3 rooms not including the bathroom.

Chairwoman Pearson confirmed that he paid \$130,000 for the building.

Mr. Kinaj replied that is correct.

Chairwoman person asked what the rental revenue was.

Mr. Kinaj replied that the lawyer downstairs is \$800 and upstairs is \$995 and \$900.

Member Matise asked if they were 1 bedroom apartments upstairs.

Mr. Kinaj replied yes, both of them.

Member Sciurca asked if that is what he would do downstairs too.

Mr. Kinaj replied yes.

Lynn Thompson, 34 Riverview Street, said she is not familiar with inside of the building. The part of the downstairs you want to make a residential rental you have to go around the back to access it.

Mr. Kinaj replied you can go in the front or the back to access it but the rear has its own separate entrance.

Mrs. Thompson confirmed there is a hallway then and the lawyer office would have no interaction with the potential tenant.

Mr. Kinaj replied yet.

Chairwoman Pearson asked if there was a gate in the parking lot in the back.

Mr. Kinaj replied yes there is a door. The whole back yard is gated actually.

Member Raymondo confirmed that the parking is the municipal parking lot, correct.

Mr. Kinaj replied yes. There is also on the side of the building parking from Mr. Spanos and he knows him so he could rent a spot from him if he needed to, he spoke to him about it so it wouldn't be an issue.

Member Matise asked about the conditions for providing parking; the preexisting upstairs are grandfathered in so if he is going to create an apartment downstairs he has to provide 2 parking spaces.

Building Inspector Stickles said he is within the parking district downtown which would allow for the municipal lots to be used as parking.

Chairwoman asked if there were so many spaces per unit on Main Street. There are so many places on Main Street are there enough spots for that.

Building Inspector Stickles said he honestly cannot answer that. Years ago the Police Department had spaces that were monitored but he thinks that has gone to the wayside and he is not sure how they do it now.

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Member Matise commented that when we had the parking meetings that was an issue as they were not permitting anymore but people could park overnight even though it is only 3 hours during the day, even on the street there are limits.

Mr. Kinaj replied that on during the day there are limits on the street. He has never had a complaint where they couldn't find parking.

Member Matise replied they would have to get out and jockey their cars if there is no driveway.

Mr. Baxter commented that the rent values that you asked for, it probably wouldn't be as much downstairs, because of the layout and desirability; it would probably be more like \$675-\$750. Upstairs has more space. The other tenant was there for 7 months but prior to that he had one that was there for a year and half. I has never been vacant, people jump for his place because he does such good work.

Chairwoman Pearson commented that usually with applications like this we are looking for financials as well so that we can determine what the hardship will be, if there is a hardship. There are 4 factors, not sure if that was brought up to you or not, that we have to go through before we can grant anything. It is very difficult usually and we will go through them.

Member Raymondo made a motion to close the public hearing for 11 Orchard Street, Use Variance. Seconded by Member Sciurca. All ayes. Motion carried.

A.2 101 Wait Street, Area Variance

Chairwoman Pearson confirmed the applicant sent out 49 mailings and got 29 mailings returned and 2 that were not picked up.

Member Metzger disclosed that she lives within 300 feet of this applicant and does know the applicant and his family. She does feel comfortable that she is able to be impartial.

Chairwoman Pearson asked if the applicant was ok with that.

James Gida, owner 101 Wait Street, replied he is fine with that. He explained that he recently went up a level. He had an attic but does not anymore. He had an attached garage but that is now his living room so he has no storage space other than a small shed in the back that he wants to eventually get rid of if granted the garage he would like to put up in the front and also increase parking space due to the winter where he has to pull cars usually on the grass or where he can. All his tools are not in any type of garage storage unit which is another reason he would like to build this garage on the right side of the property.

Member Raymondo made a motion to open the public hearing for 101 Wait Street, Area Variance. Seconded by Member Matise. All ayes. Motion carried.

Member Sciurca asked if he puts up the garage will you be removing the other driveway.

Mr. Gida replied absolutely.

Miguel Cardona, owner 1 Grace Woods Court, stated he is his neighbor across the street and he and his wife have no objections.

Alternate Member Ciardullo stated that when the packet was sent to us to look at the variance asked for the setback. He looked at the plans and spoke to Dean about that, there are 3 other issues that come up and 1 is the new driveway. It is a conflict with 305-31 which then reverts back to 305-19 which tells you that any entrance or exits have to be 50ft from the corner. The proposed new driveway is right at the corner so that is another issue that would have to be addressed. One of the other issues is the second driveway for single family home and whether there is a stipulation that you can or cannot have it but what he came up with is the curb cutting sent out.

Building Inspector Stickles stated you are only allowed 1 driveway without a variance.

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Alternate Member Ciardullo stated that he would need a variance for the driveway and also for where it is going in the public street.

Member Matise commented that it says it would have to be a triangular configuration which shall be determined by 2 points either of which is 50 feet from the intersection of such street lines not the corner. She asked Dean to explain how it works.

Building Inspector Stickles replied that they may not like his interpretation. It is 50 feet from the intersection both from Alfred and Wait. There would be an imaginary line drawn to intersect them anything in that area cannot be closer than 2 feet for site distance but the driveway itself if you just put a driveway in it is flat and would not be blocking sight distance but if you parked a car it would.

Member Matise stated that is what she thought. One of the questions she had was whether it was a single wide or double wide driveway because you are still going to be jockeying cars the way you are now.

Building Inspector Stickles replied a driveway is 12 foot wide max, a single car or 2 little cars could fit too.

Member Matise stated that if you then park 2-3 cars in the driveway that end car will cause a problem as the cars coming up on Alfred Place can't see through you. There is an advantage that there is no parking in front of your house because that is a real issue when it comes to sight distance but you could be creating a sight distance problem. Corner clearance is part of the code.

Mr. Gida stated he understands.

Member Matise stated she did go to the property and took a bunch of pictures. To her, the survey says that he has more allowance on the Alfred Place side but it looks visually like it is the same on both sides.

Member Metzger added when she walked it she felt there was more on the Alfred Place side.

Mr. Gida said that his sun room is full of windows so if he puts a garage there what is he looking at; a wall of a garage.

Member Matise said that on the survey visually it looks the same. She is curious to know why you are going to build it. Just as storage; so you are not going to use it as a garage?

Mr. Gida replied probably for his wife's car if anything to get it out of the elements when it snows or rains.

Member Matise said there would be no access to the house, would have to walk around to the front, correct?

Mr. Gida replied yes we would have to walk around to the front.

Member Matise is curious to know why you are not thinking about replacing the shed or putting the garage in the back.

Mr. Gida replied there is not much room in the back to put a garage. He would be using it to cover his wife's car to get it out of the elements. It will be big enough to put a car in there. Yes there will be times he would not put a car in there, like tonight, but if it is nice and warm out he would leave it out in the driveway.

Chairwoman Pearson asked if he could come off the other street. Then you don't have a driveway and you want a driveway. What if you come off of Alfred Place and put the garage door on that side off of Alfred Place on that side of the street instead.

Mr. Gida replied he would not have much room to pull a vehicle in and where would you want the driveway, same location it is now.

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Member Matise said no off of Alfred Place.

Chairwoman Pearson said he could use the driveway currently.

Mr. Gida replied that the garage would be right at the curb. He would not feel safe putting garage door that close to the curb it is only 5-6 feet facing the road.

Member Sciurca commented that it looks like it would be the same but this is the property line not the curb.

Member Matise understands but visually when she looked at it it looks like there is more room on the Sunset side when you are there.

Chairwoman Pearson asked how many cars he owns.

Mr. Gida replied 2 vehicles and a truck.

Chairwoman Pearson asked if that is the one parked on the street.

Mr. Gida replied yes that's the one he pulls off during snow storms in the winter time. He doesn't always park the truck there he doesn't have to he has a spot to park the truck.

Member Metzger asked if the garage will be completely detached or connected to the home.

Mr. Gida replied that Dean said he had to have some sort of breezeway.

Building Inspector Stickles stated that it has to be attached.

Mr. Gida stated there is a gate opening there so you can walk out and go to the back yard or the front but not directly through the breezeway to the front.

Member Metzger stated that she has a garage and she has parked her car in there maybe twice in 13 years.

Chairwoman Pearson said she just worries about the site distance on the street. The other driveway isn't so close to the corner so you people have a visual when you come out of Sunset.

Member Metzger commented that on Sunset but she doesn't think it would be any less coming off of Alfred.

Chairwoman Pearson stated that if he is putting a car here, this is his driveway and if he parks at the end you have to pull out past the stop sign to see out.

Attorney Dickover suggested they ask the applicant to identify what is being proposed because the survey shows 2 curb cuts but his understanding from speaking with the Building Inspector just now is that is not what is being proposed.

Mr. Gida demonstrated what he is requesting on the map. If you are looking for 50 feet from the intersection and he obeys by those rules, can the driveway pull all the way through? He wasn't fully aware it has to only 12 foot wide. How do people have a 16 foot garage and their driveway is just as wide? He is not trying to throw anyone under the bus but there are plenty of properties in his area that have a driveway that is 2 cars wide and he actually parks his truck at one of his neighbors that has one. It is a single garage that is only 8 foot wide. Not trying to throw anyone under the bus but he has seen them.

Member Sciurca commented that you might be talking about houses that were built prior to adoption of zoning so that might be an issue, 1958 some might predate that.

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Member Matise feels this is double trouble as she thought it was just a straight driveway.

Building Inspector Stickles thought it was just from Wait Street as well.

Mr. Gida replied that if that is the case he is ok with one curb cut and just come off of Wait Street.

Member Matise said it doesn't seem to her he has the turning radius for that. How would you get into the garage?

Mr. Gida said he would pull around and back in.

Member Matise replied don't make it any harder than it already is.

Chairwoman Pearson said she is the one concerned about it being too close to the curb.

Member Matise said that is a different issue, she thought he was only proposing 1 cut. Corner clearance concerns vehicles above 2 feet. If you have a party and anyone parks in your driveway then you are violating the sight distance with the car parked on the end there.

Chairwoman Pearson asked if he would have a hard time getting in off of Alfred as a 12 foot driveway.

Mr. Gida replied that he won't but his wife might and she is not going to want to back in like that.

Member Matise agrees and in the winter it seems ridiculous to do that.

Building Inspector Stickles added it is also flat.

Mr. Gida stated that to make it easier to have it enter and exit come and go on both sides.

Member Matise asked what the point of the turn is, it is not like you are using the whole front yard as a sweeping driveway.

Mr. Gida replied he could but he may be way out of the realm of things here.

Chairwoman Pearson asked if it is just off of Wait Street the 50 feet is from the intersection and creates a triangle.

Alternate Member Ciardullo clarified that from the corner it has to be 50 feet not more than 2 feet high so you can have a driveway there but you can't park a car in that driveway.

Member Matise replied he can just not within 15 feet of the stop sign.

Chairwoman Pearson thought it was 30 feet.

Alternate Member Ciardullo asked Dean for clarification please. Member Matise disagrees that anything in that triangle from that intersection that line cannot be more than 2 feet high.

Building Inspector Stickles confirmed it cannot be more than 2 feet high in that triangle. The driveway itself is ok but a vehicle parked there would be.

Member Matise clarified that it is the height, not the fact that the driveway is that close to the corner.

Alternate Member Ciardullo said that he would not be able to park a vehicle there.

Member Matise replied he can but it couldn't be more than 15 feet from the stop sign; correct Dean?

Building Inspector Stickles said they are asking questions he really doesn't know.

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Lynn Thompson, 34 Riverview Street, stated that we just had this discussion recently and she is quite certain that Sgt Werner said it is 30 feet from a stop sign and they are not good about enforcing that in the Village.

Alternate Member Ciardullo asked what this has to do with the triangle.

Member Matise said it has to do with his driveway that he can use without creating a sight distance problem.

Alternate Member Ciardullo replied that he believes if it is in that triangle 50 feet nothing can be parked there as it is over 2 foot high, Dean just said it.

Building Inspector Stickles asked how far the fence is from the pool.

Mr. Gida replied about 20 feet possibly from the fence.

Building Inspector Stickles asked why he couldn't come off of Alfred Place and go to the rear of the garage. He would have to move the fence back to the corner of the house, not too much.

Mr. Gida replied he would be losing all his back yard space.

Building Inspector Stickles replied yes but not that much. Right now if you don't have that much from the fence to the curb and the fence to the backyard. You would be getting almost what you want just coming in the back way.

Mr. Gida clarified and moving the fence over.

Building Inspector Stickles said yes moving the fence over to get that on an angle.

Mr. Gida replied now he would be looking into another project as well and he just put the fence up so he will say no on that one.

Member Metzger said the existing driveway and the intersection and the stop sign; is there any difference going to the other side. He is not going to have the existing driveway any longer so in theory just moving from one side to the other side of something that already exists.

Chairwoman Pearson replied yes but not sight distance.

Member Metzger said that is what she is asking what the sight distance is because it seems to her almost the same sight distance. How much difference do you think there is?

Chairwoman Pearson replied that just from looking at the map she is looking at this much sight distance to the driveway here and none here and maybe 15 feet there. Probably 30 feet there.

Member Sciurca added you are not at all touching the driveway.

Member Matise said she had another idea. What rooms are down here, what are you blocking?

Mr. Gida replied there are 2 bedrooms there.

Member Matise said she is talking about the sunroom not talking about the long side of the sunroom but you have an existing driveway that could be cut to turn and why not seek a variance to put the garage here as an L to the house and use the existing driveway and just turn into the garage. You are only going to lose 3 little windows on the short side of the sunroom and not blocking bedrooms that way.

Mr. Gida suggested instead of coming straight off we come more on an angle. Come in on a curve. So you can be back further. He would be far enough away if the cars are parked over here not there now.

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Almost like a slight s but everything behind the 50 foot mark from here where the cars would be parked. He demonstrated on the map to the Board, the Building Inspector, and Attorney.

Building Inspector Stickles asked what happens if he flopped and came 12-15 feet this way.

Mr. Gida replied yes that is what he is showing.

Building Inspector Stickles said that if he would entertain that idea it would behoove you to have Howard show you that the 50 foot sight distance is not being affected by a dotted line and then would fulfill that requirement.

Chairwoman Pearson asked if he was comfortable with that, putting it in front yard.

Mr. Gida replied absolutely he has it in his front yard now. He would be gaining more yard moving the driveway over. He would park all his people that he has a party with over there.

Attorney Dickover stated it removes the requirement for the 2nd variance but would still have the side yard variance.

Member Raymondo said that would be the easiest way to do it.

Member Sciurca said if he's willing to do that that is better. It was either that or she was leaning towards moving the fence.

Alternate Member Ciardullo said he wanted him to just be aware that the driveway is ok but if it is over 2 feet it is a violation of code and he just needed to know that.

Chairwoman Pearson said what she's hearing from the Board is that he feels comfortable with having Mr. Weeden draw in where that would be on this map and come back to us at the next meeting so we can see it.

Mr. Gida said that is fine. Or he can draw it on the grass and you can come take pictures.

Member Matise asked what the set back is from Wait Street.

Building Inspector Stickles replied in an R4 zone he doesn't remember off the top of his head anymore. You can't change the set back that is there he thinks it was approved in 1952 when they were put up.

Chairwoman Pearson stated that he would not need a variance if he chose to change.

Building Inspector Stickles said he needs the variance for the garage.

Member Metzger asked if we were able to address that part of it tonight.

Member Matise replied no it would be all one with a revised map.

Alternate Member Ciardullo asked if this chart would help you with the R4 figure.

Building Inspector Stickles said yes, thank you. It is 30 feet so he has it. He has 36.2 feet.

Chairwoman Pearson asked if the Board is comfortable with him bringing back a revised map for next meeting and do you want to see a photo of what the building will look like or is that done at the Planning Board review.

Attorney Dickover replied that you can ask for elevations, whether or not you have the authority to approve or not is a better question, which is no you don't. If he is taking a structure and putting it 5 feet off the boundary line he is proposing 19 by 24 feet is that necessary. Should be the minimum variance to satisfy the hardship he is presenting. Is it 1 story, is it 2 story, you haven't required any of those details.

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Chairwoman Pearson asked the applicant to tell the Board about the structure he wants to build.

Mr. Gida replied it is a 2 story building with a loft upstairs. The garage would be 16 feet wide with a 3 foot breezeway to enter and exit his back yard. It will be the same height or a little shorter. 7 foot ceilings so maybe 18-19 feet, 20 possible.

Attorney Dickover stated that the map shows is as a 19 foot garage are you changing that.

Mr. Gida replied that is overall 19 feet but usable space is 16 feet and the 3 feet is the breezeway as it has to be attached.

Member Sciurca asked if there was a reason for the breezeway.

Building Inspector Stickles stated that he wanted to originally put a detached garage and it wouldn't fit. He could put the garage right next to the house if he wants, he does not need a breezeway.

Member Sciurca asked if he can build an attached garage.

Mr. Gida replied no, there are 2 bedrooms there. It is not like the hallway runs all the way to the back of the house with a closet if there was he could bring it right to it.

Chairwoman Pearson said the reason for the breezeway is the law.

Member Matise replied no he just told you, it's because there are 2 bedrooms and windows.

Chairwoman Pearson asked why it has to have a breezeway.

Building Inspector Stickles replied it doesn't have to it's what he wants to have. He could take it right up against the house with fire separation.

Mr. Gida said he could not have the garage detached from that structure or he would have to file for another variance.

Chairman Pearson asked if he knew the height yet.

Mr. Gida replied not yet. He has not submitted any drawings as they haven't gotten there yet. Dean told him it was allowed up to 29 feet but he doubts he will go that high.

Member Sciurca stated he has done a great job to the house already and you will keep in continuity with the house and the garage. Some others that are just monstrous in that area now but you have done a great job so she doesn't foresee you putting something that doesn't match the house.

Mr. Gida replied that it would not be taller than the house.

Chairwoman Pearson asked if he could tell us that when he comes next time, what you think the height would be.

Mr. Gida replied yes he will pick out something he likes and will bring pictures with elevations for next time.

Member Sciurca asked if the loft would be for more storage.

Mr. Gida replied yes for storage but he does think he will eventually finish it.

Member Metzger asked what his hopes were to begin the project.

Mr. Gida replied as soon as possible.

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Member Metzger stated the next meeting is June 7th is that ok.

Mr. Gida said it will have to be.

Mr. Cardona stated Mr. Gida is a very nice guy and always asks if he needs help. Wonderful to have neighbors like that.

Chairwoman Pearson thanked him for his comment.

The Board reviewed aloud the 5 factors associated with an Area Variance:

a. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance?

Chairwoman Person spoke for all by answering no.

b. Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance?

Chairwoman Person spoke for all by answering no.

Member Sciurca asked if there would be any openings on the garage on the side that faces Alfred Place.

Mr. Gida replied no as he is not comfortable with that due to safety issues.

c. Is the requested area variance substantial?

Chairwoman Person spoke for all by answering no.

d. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Chairwoman Person spoke for all by answering no.

e. Was the alleged difficulty self-created?

Chairwoman Person spoke for all by answering no.

Chairwoman Pearson stated that it looks good to everyone here, if he can have a photo with the elevation and adjusted map showing the sight distance.

Mr. Gida said he understands and will get the information to Dean before the next meeting.

Member Raymondo made a motion to adjourn the public hearing for 101 Wait Street, Area Variance until the next meeting on June 7, 2018 at 7:30pm. Seconded by Member Sciurca. All ayes. Motion carried.

B. FORMAL APPLICATIONS:

B.1 11 Orchard Street, Use Variance

Chairwoman Pearson stated that with a Use Variance we have to look at 4 criteria and she read them aloud:

a. Can the applicant realize a reasonable return, provided that lack of return is substantial, as demonstrated by competent financial evidence?

b. Is the alleged hardship related to the property in question unique and does it not apply to a substantial portion of the district or neighborhood?

c. Would the requested use variance, if granted not alter the essential character of the neighborhood?

d. Has the alleged hardship been self-created hardship?

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Chairwoman Pearson stated that one of the questions we ask because of this is that the hardship has been self-created. When you purchased the building you did know it was commercial and Dean said he let you know that. So the issue is whether we want to grant it or not it doesn't seem to be a hardship because you knew when you purchased the building that it was supposed to be commercial. She has been in many communities where they allow 1st floor residential in commercial areas and lots of times it is not been a pretty situation. Beacon was one of them. She met with the Building Inspector there and a lot of the issues were because of the lax in their rentals on the 1st floor as they hung out on Main Street and in the street and it wasn't pretty. So the Building Inspector there became new and he started enforcing the laws. She doesn't see a hardship, she is not sure about the rest of the Board.

Member Sciurca doesn't see a hardship either. She can see him meeting the other 3 but not a hardship unless she is missing something. She has not had the experience of going to Beacon and seeing that first hand but can understand it.

Member Raymono doesn't see a hardship and he is not in favor of changing it. He purchased knowing it was business with commercial on the 1st floor.

Member Matise said that the factors are the factors and we can't bend them and say well we like you and we want to do it. Well it's in the back it is not a store front on the street but you really need to prove that you meet the factors. The State doesn't give them the ability to just pass this. The self-created hardship is the hardest to get around because when you buy something you should buy it with your eyes open.

Member Metzger is good with 1-3 but the way she is looking at it she has difficulty with 4, the self-created. She likes it is a rear unit so she does not feel it would be detrimental to the area. Is there access for the offices directly to this portion in the back?

Mr. Kinaj replied no, there is a door in the hallway but there is a wall in the middle that divides it.

Member Metzger thought that the 2 attorneys are not partners, they are separate and there is no way to get a 3rd and 4th attorney in there to share the space.

Mr. Kinaj replied that we have tried.

Member Metzger stated that personally she wants to say yes but the biggest hurdle is the self-created hardship so if there is something that you are able to show us that it is not a self-created hardship. She doesn't think that parking is an issue and the neighborhood is not an issue, it is just the self-created hardship. It appears when you purchased it you knew it was commercial.

Mr. Kinaj replied he didn't know he couldn't change it.

Member Sciurca stated that she doesn't think that the market trend of him not being able to rent it commercially is a self-created hardship.

Member Metzger agrees but then you have to go back to the cause which is that he bought a building knowing it was a commercial space on the bottom floor. It is very difficult because we don't want vacant property anywhere especially in our business district.

Chairwoman Pearson stated that she thinks we all feel the same way but we are bound by these 4 criteria that we have to go by, we can't make that up. If we grant something like this it sets a precedent for future people and before you know it the whole downtown Main Street has that in there. Have to look at that.

Member Matise asked if the applicant feels he can prove #1 that he cannot realize a reasonable return or pass #4 that you didn't create it yourself by buying a building you couldn't use the way you wanted to.

Chairwoman Pearson stated that is why you pay attorneys to look at that for you and make sure you are going to step in the right direction. You have attorneys and real estate agents that do this for a living and

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those are the people who should be guiding you in what is happening in your life with these properties. We get these often and we are turning down things we don't want to. That is the worst part, the hardship.

Member Matise asked with the occupants you have now, are you operating the building and breaking even or are you at a loss. What is the financial situation the way it is.

Mr. Kinaj replied it is not a loss.

Chairwoman Pearson clarified that he is even or above so again not a hardship. Those are the things we ask for and have to have in order to make those decisions.

Member Raymondo made a motion to deny the application for 11 Orchard Street, Use Variance. Seconded by Member Matise.

Roll Call:

Member Sciuca – Aye
Member Raymondo - Aye
Member Matise – Aye
Member Metzger – Aye
Chairwoman Pearson - Aye

Motion carried.

Chairwoman Pearson wished Mr. Kinaj good luck, we are not happy but we are bound by rules.

Attorney Dickover stated he will prepare a written decision for the Boards' review and approval next month.

B.2 101 Wait Street, Area Variance

Carried over until the next meeting.

C. DISCUSSION ITEMS:

Chairwoman Pearson just reminded everyone about the required trainings just make sure you have that done, Tara sent out the information on some recently.

Alternate Member Ciardullo explained that he asked for a copy of the Zoning Code after he was sworn in and he was told that we don't get that and he would have to get it on their own. He asked if each member had a copy of the Zoning code.

Member Metzger replied that she does not.

Alternate Member Ciardullo said that he printed it himself and he's been going through his copy for the past 3 days going back and forth with Dean and Tara asking questions downloaded and made own zoning code. Unfortunately most of the stuff that he is looking for is not in there, there are attachments and editor's notes that are not printed so he has to go back into his computer to get them. Tara walked me through how to get them. He spoke to Dean who sent him the 6 pages he emailed to you and then he found out there is a 40 page book called standard street specifications. How many of you have this?

Member Metzger replied she does not.

Member Matise stated she had it.

Alternate Member Ciardullo stated that it none of us seem to have the needed tools to do our job. Since we have our liaison here tonight he is asking the liaison to go back to the Board and ask that every member of the Planning and Zoning Boards get the proper literature. When he was talking to Dean they are talking different languages as he was talking page numbers but Dean's book doesn't have page numbers. This is a disaster. Each and every one of us are responsible to be on the same page to do all

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these things and he thinks the Village Board should make a decision to get this to every member of ZBA and Planning Board so that they have them.

Building Inspector Stickles stated that in all fairness, the one that is online has page numbers and the code book has sections.

Alternate Member Ciardullo feels that everyone should have the same thing that Dean has so that we are all talking the same language. He also asked about the amendment made to the Zoning code for 2 family houses he is told it only affects 15 homes.

Chairwoman Pearson stated that is a tentative list that Dean had put together. She doesn't think it is attached to anything.

Building Inspector Stickles stated that the way he understands what the Village Board did is that any home constructed as a 2 family prior to 1958 or multifamily or some such prior to 1958 could apply to his office for relief under that. It may not be a complete list as some of those 2 families may not have been constructed as a 2 family they may have been converted at a later date. So it's a case by case situation.

Alternate Member Ciardullo asked if there is a way he can get a discreet list of homes this affects.

Building Inspector Stickles replied no because they won't be coming here. The Village Board allowed them to exist as they are as long as they meet the criteria.

Alternate Member Ciardullo clarified that the Village Board already put out the specs and they are not going to come before the Planning or Zoning Boards.

Attorney Dickover stated that they could come for a variance for relief of new zoning rules or if they don't meet the criteria.

Member Matise added they would not come here for the abandonment of use.

Alternate Member Ciardullo stated that his history here has seen things set up and then something comes up that the applicant believes is part of it and gets confused again. He thought if we could do it, but he guesses we can't, of the exact properties.

Chairwoman Pearson stated that Dean has a pretty good list of what he believes they are.

Building Inspector Stickles said this is not a house that you can buy it is specific for foreclosed houses that just lost their use because the owner walked away. Most of that means vacant for 12 months.

Alternate Member Ciardullo clarified that in another 5 years someone walks away from a home like that and it is vacant for a year.

Building Inspector Stickles and Chairwoman Pearson both stated that then this could happen.

Member Metzger stated it is a fluid situation.

Member Matise further clarified that it gives the Building Inspector the ability to make a decision without the Zoning Board involvement because there is no abandonment of use issue that we were dealing with before. They still get to maintain the usage they had.

Alternate Member Ciardullo asked if Trustee Thompson needed a letter from this Board to get the paperwork he requested.

Trustee Thompson stated she would just include it in her report, no letter was needed.

Member Matise asked about the street specifications.

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Building Inspector Stickles interjected and said that is just the Village's street specifications you don't need that.

Member Matise stated that she had it anyway.

Chairwoman Pearson stated she would ask for it at the next Village Board meeting since she goes to them.

Secretary Bliss clarified it is just section 305 on Zoning with any attachments or the entire code book.

Chairwoman Pearson replied yes.

Secretary Bliss stated consider it done, she will make the copies. She asked who needs a copy.

Chairwoman Pearson said she has one but it might be outdated.

Member Metzger asked if she needed one in print or could she just use the downloaded one she has on her computer.

Member Matise replied it is whatever you prefer.

Member Metzger said she would like one.

Member Matise asked if they could get an updated zoning map.

Secretary Bliss stated she would make the copies and get them to each member and anyone else who would like the zoning code, just let her know. She also stated she spoke to General Code with regard to the links they discussed on the phone earlier and they have now made them direct links.

D. INFORMATION ITEMS: None

E. CORRESPONDENCE: None

3. COMMUNICATIONS: None

4. EXECUTIVE SESSION: None

MEETING ADJOURNED: **8:56pm**

RESPECTFULLY SUBMITTED
Tara Bliss, Zoning Board of Appeals Secretary