

Village of Walden
Zoning Board of Appeals Meeting
May 27, 2020

Chairwoman:	Rebecca Pearson	Present
Members:	Christine Scieurca	Present
	Gregory Raymondo	Present
	Mary Ellen Matise	Present
	Brenda Adams	Present
Alternate Members:		
Building Inspector:	Dean Stickles	Absent
Village Attorney:	Robert Dickover	Present
Secretary:	Marisa Kraus	Present

Chairwoman Pearson - Called the Zoning Board meeting to order at 6:00pm with the Pledge of Allegiance.

1. APPROVAL OF MINUTES:

Chairwoman Pearson: My comment is my name is spelled wrong.

Member Scieurca made a motion to approve July 24, 2019 minutes with changes. Seconded by Member Raymondo. 4 ayes. 1 abstention. Motion carried.

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1 126 North Montgomery St

Member Adams made a motion open Public Hearing. Seconded by Member Matise. All ayes. Motion carried.

Zach Peters: There's an existing site plan application before the Planning Board at the moment for a senior housing complex that's proposed at the site. The northerly portion of the site, there's an existing home and garage that we're proposing to maintain and utilize as an office and maintenance garage for that use. The existing garage is 7/10 off of that northerly property line with a foot side yard setback. Because we're going in for a new application that's currently grandfathered in as a nonconforming use, it's going to lose that approval. That's why we're before the board. A side yard variance for that existing garage.

Chairwoman Pearson: I'm looking at the map, can you clarify for me where on this, I'm looking at North Montgomery Street, you come in and you have a 5.2. 5.1 kind of triangle, and then is it three separate lots that you're doing?

Zach Peters: The square in the center is actually an out parcel, that's 5.2. There's an existing house, that's going to stay. It's involved in our Planning Board application because we're going to change the access drive, but it's not being developed as part of the site plan. The other 2, which I believe is 5.1, the big triangular piece and 5.3 is the other piece. Those are going to be combined. The other piece in this south easterly. Right now they are 3 separate lots.

Lou Donnelly: The little blue house with the little garage behind it. Right next door to that. That piece is included. Mrs. Sparks has a nondescript easement. We're going to give her a descript easement with the application.

Chairwoman Pearson: Is she selling that property or is she keeping it?

Lou Donnelly: I'm in contract with her. Mrs. Sparks has no obligation.

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Member Adams: I have to say that I did not realize that that's the garage you were talking about. I thought that the garage you were talking about was further up where I couldn't see it. What is the condition of that garage?

Zach Peters: Larry Marshall went out and did an inspection of that garage. It's an old concrete block garage. It's structurally sound. There are a few repairs that would have to be made for. Mainly needs a new roof and some repairs in the front. I believe we're proposing that we're going to refinish that and side it to match the proposed building.

Lou Donnelly: Correct. Along with the house, will be re-sided and new roof. Everything will be in coordination with the new project that we just got Neg Dec for last week.

Chairwoman Pearson: Will you be making the garage bigger or the same size?

Lou Donnelly: We're going to keep it exactly the same size. It's going to look brand new when it's finished.

Chairwoman Pearson: Sparks house at one time, what is going to be a maintenance building? Is that still staying a maintenance building?

Lou Donnelly: Sparks residence was never going to be a maintenance building. Sparks might have been a rental office or it might have been a rental. But I have no control over Mrs. Sparks. If she decides that she doesn't want to sell that, that has no condition on my approval.

Zach Peters: The Planning Board had asked that we include that tax lot in the application because we're changing your access to it. So, they felt that it should be included for that reason.

Chairwoman Pearson: Are you expecting to own this property or are you just doing the work and someone else owns the property?

Lou Donnelly: I've spent several hundred thousand dollars in the process of this application in three and a half years. Yes, I expect to own the property. My daughter presently lives in that blue house.

Inaudible.

Member Scurca: I did go up by the site, I just want to know, is the variance for over on this side?
referenced a location on the map

Lou Donnelly: Yes. There's a small garage there.

Member Adams: The house is in compliance?

Lou Donnelly: Yes. The house has a CO currently. I cleaned it all up and my daughter presently lives there with her newborn baby.

Member Adams: Do you have to take any walls down on this garage?

Lou Donnelly: Structurally the building is sound. It's a block building on a concrete foundation with a poured concrete floor. That's why I wanted to save it. The structure itself is sound.

Chairwoman Pearson: On the Orange County Department of Planning. It says 5.2 Acres on that page and then on the back page 3, it says 6.22 acres. So, I'm not sure the discrepancy between the acres on the paperwork.

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Attorney Dickover: If you look at the survey, an existing condition map that was presented for the area variance, this parcel is Parcel A on that map and the map calls it out as 5.27 acres. Parcel B is the other piece, which is .95 and if you add them up you come close to 6.1 or so. It doesn't matter with respect to this. We're dealing with the side yard which is the same regardless of which parcels we're looking at. Size of parcels should be reflected as 5.27 acres because that's the lot that we're talking about.

Member Matise: I'm just asking about the access, where the garage is now and if the garage were within the proper setbacks and what types of vehicles are going in there?

Lou Donnelly: We're only going to be using a pickup truck. More than likely there'll be a skid steer to be doing most of the work. It's about half the size of a pickup truck with a snow blower on it and a pickup truck for salt and sand machine. Nothing oversized. Maybe some hand tools and maybe a couple of walk behind snow blowers. It's more or less just for maintenance. The access will be the same location. It's only going to be a regular vehicle. There won't be any heavy commercial vehicles in there because there'll be no need.

Member Matise: If you had to restructure that or another building to meet a required setback. Where would it be repositioned and then where would the access be?

Lou Donnelly: That's a county road, so the access is adequate for a single family home and everything coming in and out of there would be the same thing that would be coming out of a single family home. Everything will stay the same regardless. If I tear the building and put up a new garage, it'll be in the same location, other than the fact that it would meet the setback requirements.

Chairwoman Pearson: That driveway, is the easement, the driveway that goes to Sparks as well, is that the driveway we're talking about coming in? The same entry used for the project?

Lou Donnelly: No. That driveway is going to stay the same driveway that it's been since they built it. That has a county road access from there and that is a single family home.

Chairwoman Pearson: Will there be commercial vehicles or just regular?

Lou Donnelly: The property is going to own a pickup truck with a plow with a sander on it, but that's really all that is going to be required to maintain the facility. I plan on getting a skid steer and a snow blower because they do so much better of a job.

Chairwoman Pearson: If it's a garage, our code 305-30, there is no renting of spaces and there's one commercial vehicle allowed in there. Just for the reference of that on the minutes.

Lou Donnelly: It's not going to be a rental space at all. It's going to be for personal use.

Member Matise: Is the Blue House going to be a rental?

Lou Donnelly: No. We're going to use that for a maintenance building. It's going to stay going to stay a house. Maintenance office space for facility management.

Member Matise: Then it's going to be used more or less commercially.

Lou Donnelly: It's going to be used in conjunction with the application that's currently before the Planning Board.

Member Matise: If you're changing it from a residential use to have a more or less a commercial use as part of the project. You have to you have to provide parking for that, because how many people are going

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to work there? At the same time, you still have to provide access to the garage behind there. Where is the parking then going to be? Now, as a residential unit, they're probably parking the driveway.

Lou Donnelly: You'll be parking in the driveway there as well. It's a three bedroom house. As an average three bedroom house, two or three cars. So, there is ample parking for three or four cars without blocking the garage, presently.

Member Matise: I don't see that.

Zach Peters: We show that on the site plan.

Chairwoman Pearson: The Planning Board has taken consideration of that?

Zach Peters: Yes. That's included.

Chairwoman Pearson: The screening that's on the northern side of that house, those bushes, are you leaving those?

Lou Donnelly: We just literally took the property over three months to go. I'm just going to trim them up. They're very nice screening. That's also why I want to keep the garage. If I take the garage out, there's a big hole in that screen line. I'm not in love with the garage. Don't be confused. I'd like you to pass it, but if you don't pass it, it's not the end of the world. When I get my site plan approval, I'll knock it down and then I'll make an application to move it over five feet and build a garage at the same size that meets the code.

Member Matise: The view from the other side is a cement block building and not trees.

Lou Donnelly: Re-siding the whole exterior of the building. In essence, the garage is going to look like a brand garage.

Member Matise: Would it be a different size if you restructured it?

Lou Donnelly: At this time, I'm hoping that you are going to find in favor of keeping it. I haven't given it much thought. Before I can get a CO on my building, it's probably going to have to come down. At that point, I'll make the decision of where I want to put the equipment, whether I keep it in the parking lot up on top or I make an application for the board to put up an accessory building.

Member Raymondo: The building has been there for a long time and he's going to just fix it. I don't see where there is a problem.

Member Scieurca: I agree with Greg.

Member Adams: I agree with Greg.

Member Matise: I don't see why you would encumber that property in perpetuity. We just keep adding variances on top of variances. Why do we have code? What's the point of encumbering the property for a couple of thousand dollars? Then the variance never goes away. It's always there.

Member Scieurca: From what I understand, the building was built in 1953 and changing ownership, so they have to apply for the variance. Prefer to see an updated building rather than the existing.

Member Matise: Christine, you're saying the difference between a new building and an old building. For all the repairs that you're doing, why not just spend two or three thousand dollars for a whole new building with new electric?

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Member Scurca: I don't know that it would necessarily be two or three thousand dollars more.

Lou Donnelly: The reality is that the building will look like a brand new building. Everything new. The only thing is it's going to be five feet off the property line, instead of 10. So, it's not encumbering the other property and quite honestly, by taking it down, I think we're going to end up making a whole in that place. The house has been the same forever. I'm sure everything that they've adapted in their back yard or side yard is accommodated with that building in place. So, when I take that building down to move it over five feet, now we've created a void where something that's been there for 50 or 60 years. Now I can't match the vegetation that's there because it's going to take 20 years to grow to that height.

Member Raymondo: Yes. The expenditure to put up a new building, with new pad. You have to consider the cost of the demolition of the old building. Like you said, now you've got to consider the neighbors. They're going to have a big gap here. It's simpler to fix an old building and make it look good. I don't see the problem.

Chairwoman Pearson: Environmental form, page 2 of 3, number 8, will the proposed action result in substantial increase in traffic above present levels? If it's going to be a commercial space, should it say yes or should that say no?

Zach Peters: The way that we've analyzed it and looked at it, this is going to be an office building for the housing complex for one employee. Anybody that technically classified as an office, people that would be going there would be people that are interested in renting the apartment. So, it's not going to be a heavy volume site. There's not going to be any other tenants in there. People are going to be coming and going. We anticipate that it's going to be comparable to a single family dwelling, if not less traffic, less of an impact because of that.

Chairwoman Pearson: I don't know whether we're treating this as a whole because it is going to be part of a whole project, on page 3 of 3, number 17. Will storm water discharges been directly established conveyance systems. It says, no. You are going to be having detention basins. Am I correct? So, wouldn't that be saying yes?

Zach Peters: The way that I looked at it and Rob, correct me if I'm wrong, I looked at it as this application was specifically for the variance, so I didn't think that was appropriate to include.

Chairwoman Pearson: I didn't know if it was including the whole property.

Zach Peters: I looked at it that this was for the variance application. *inaudible*

Attorney Dickover: We're dealing with just the variance, not the entire site planned project.

Member Adams: My biggest concern about the whole thing was that the building isn't the kind of condition that it can be refurbish, re-sided, new roof and made it whole, that it is not going to come back to Dean for a permit to demolish or permit to have to rebuild 3 walls or something like that. I want to make sure that this building is exactly ready to roll except for some remodeling.

Chairwoman Pearson: We could put a condition on it that if it needs more than cosmetic work and it's going to be tearing down walls, that it'll be denied.

Attorney Dickover: The board has the authority to impose reasonable conditions that are reasonably related to the application. Frankly, I'm not sure that that's one of them. The application is for a side yard area variance, whether the building has to be refurbished or walls repaired, building permits are going to have to be issued, probably because you're putting a new roof on. I don't think that's the kind of condition that's related to a side yard area variance. The questions here really should be the 5 factors. Have a building that's .7 feet off of property line that's currently used; my guess is that this is a garage used by a

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single family residential dwelling. Your proposal now is to use it as a maintenance building for a fairly substantial apartment complex. It seemed to me that the intensity of this is quite different, as you're proposing it, than it is currently being used. And that goes to 1 of the 5 factors, which is a change in the neighborhood where the detriment to the neighbors or neighborhood. I'd like to hear you or Zach speak to that issue so that the board can have it in front of them when they deliberate.

Zach Peters: In terms of the garage and the use to the garage, we don't anticipate it being substantially more than what you would typically find in a residential. Snow blowers, snow shovels, that sort of thing. There is going to be a pickup truck for the maintenance. That's probably going to be consistent with many houses. I agree, it is more commercial use, it's an office use. But I don't think in terms of the impacts, it's different. You can go out and find that in any house right now.

Lou Donnelly: I agree with you. It's not like the equipment's run out every day. Everybody has a lawn mower or a tractor if you have a property that size. And you have a snowplow and a pickup truck. If you go to my yard, I don't do commercial snow plowing but I have a tractor in my garage and I have a snowplow in my driveway and a walk behind snow blower. We're not talking about a site that's mammoth. The garage is primarily going to house, literally all equipment that you would find in any residential house. Other than that, there's nothing else that's needed to maintain that area of storage.

Member Scieurca: It doesn't have anything to do with the variance, but how many units do you plan on having up there in total?

Lou Donnelly: 69.

Member Matise: How many parking spots?

Lou Donnelly: I believe there are 150.

Member Matise: So, you're going to be plowing an area that has 150 parking spots?

Lou Donnelly: That's correct.

Member Matise: Not talking about just plowing the driveway. You have an access road. We saw the site plan last week. You're talking about point of a road going in a curved fashion up to the site and then parking all the way over an L shaped building, parking on all sides except the front. You're talking about a considerable area that's going to be plowed. You're not talking about a driveway. Will 1 truck be sufficient in the long run?

Member Raymondo: This has nothing to do with this application.

Chairwoman Pearson: I agree.

Member Scieurca: I just want to get a full picture of what's going in up there.

Chairwoman Pearson: Sparks property, if you end up purchasing that property, what will the building be again?

Lou Donnelly: I should be honest with you, I'd like to move my daughter. That's my plan. Mrs. Sparks takes beautiful care of it.

Chairwoman Pearson: I thought your daughter lived over by my father's house.

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Lou Donnelly: That development went into foreclosure because the Town of Montgomery beat me to death. I had lost everything that I owned. I never got to do that. What I'm hoping to do is move her into the Sparks house.

Chairwoman Pearson: The original plans were that was going to be the maintenance building, I thought.

Lou Donnelly: What you have to understand is that I cannot make Mrs. Sparks do anything. She is a very nice woman. If she doesn't want to sell her house, what can I do?

Chairwoman Pearson: You had said before that it really didn't matter if that was bought or sold, because you're still building the project whether that's going to be sold at all.

Lou Donnelly: It has nothing to do with my application. It has nothing really to do with the zoning.

Chairwoman Pearson: I just wondered if there was going to be another maintenance section as opposed to this one, too.

Lou Donnelly: No.

Member Matise: .7/10 of a foot is how many inches? Is that all we're talking about? That's only inches off the lot line?

Zach Peters: Correct. The existing garage.

Member Adams: I just wanted to clarify something. I wasn't worried about needing a permit to remodel the property. I just want to make sure that we weren't saying that it is in remodeling condition or able to be remodeled and then find out that it's not that. That was really I didn't articulate myself very well. I know that you might need a permit and you're going to do siding and roofing and all of that.

Lou Donnelly: The board had asked Larry to go out and take a look at the building. I have built several hundred homes in the area. As far as storing and making that building beautiful, it's not really going to be a problem. My opinion was it was structurally sound. However, they did want Larry to go take a look. He sent the report me and the Building Inspector as well, that the building needs some minor repairs, but overall, the structure was sound.

Chairwoman Pearson: Would the Planning Board have gotten that report?

Zach Peters: I believe we submitted it to Dean.

Chairwoman Pearson: Rob would have gotten that or no?

Lou Donnelly: No, probably not. Maybe he did get it. I don't know.

Attorney Dickover: My suggestion has been that if the board wants to close the hearing, you can do so. But the suggestion is that you leave it open for written public comment for a period of 10 days or as many as you want. If comment is received that you think would change or that the board wants to consider, you could consider it before making your decision.

Chairwoman Pearson: Or we could hold the public hearing open until the next meeting of the board and get the written comments in fifteen days because we might be able to meet publicly next time. And if we do, the public might come out more so than writing a letter. I would prefer to hold the public hearing open until the next meeting.

Member Raymondo made a motion to continue the hearing and come back next meeting. Seconded by Member Adams. All ayes. Motion carried.

A.2 19 Orchard St, Use Variance

Member Matise made a motion to open Public Hearing. Seconded by Member Scieurca. All ayes. Motion carried.

Joy Guerrero: I recently bought the property of 19 Orchard St. The place needs a lot of restoration. I decided to hire an architect. New drawings. Basically, the addition of the original building is very unstable. I need a full renovation. If you have seen the drawings, I plan to do a 2 story building. 2 family.

Chairwoman Pearson: Are you planning on tearing the building down and rebuilding something?

Joy Guerrero: No. Only the addition, which is the back part.

Chairwoman Pearson: There are no plans attached to any of this. We have no plans to look at.

Joy Guerrero: Okay. I sent drawings to Mr. Stickles with the application. I have a digital copies.

Member Matise: The only addition I see here says cooler. Maybe he was using that within the florist business. Is that what you're talking about as an addition?

Joy Guerrero: Yes, that's one. The first drawings that the architect made.

Chairwoman Pearson: We don't have those drawings.

Member Scieurca: At some point we're going to want to see those drawings, but the request is to turn the first floor into the residential. How many bedrooms on the bottom floor? What are we looking at as far as parking?

Joy Guerrero: We have one spot for parking in the driveway and the street parking.

Chairwoman Pearson: When you purchased the property, did you know what it was zoned?

Joy Guerrero: I was actually a little confused because in the listing said residential, R3. Then was surprised that was actually B2.

Chairwoman Pearson: It is a business district. You did have an attorney with you when you purchased the property and he told you what it was before you purchased it?

Joy Guerrero: Yes.

Chairwoman Pearson: He was the person who told you it was R3 or was it was it the seller?

Joy Guerrero: I think it must have been the seller. Because the listing was residential.

Chairwoman Pearson: So, did you buy it knowing was R3 or did you know before you purchased it that it was a B3? Did somebody tell you before you purchased that it was business?

Joy Guerrero: Yes. I knew.

Member Adams: I have a concern because he purchased this property on January 3rd and they applied for a variance right away on January 23rd knowing that it was a business property. Then knowing that he wanted to make it residential. There was never any attempt to rent it as a business property. So, I'm not

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sure about the fact that he can't find the value in this property. There was no attempt to rent it as the business property. I don't see the hardship, because knowingly the property was purchased with the intent to do residential, but knowing that it was not residential property.

Member Raymondo: The property after the flower shop was a pet shop. The building in the back, is a cooler that was used for the flower shop. I am more concerned with the structure of the building because I previously been in that building many times and it was literally gutted. *inaudible*.

Member Sciurca: I have to agree with Brenda, because it points to number 4, that the alleged hardship has not been self-created. If you went into this knowing that it was a B3, then I don't know how we would possibly get past that unless you tried to rent it out as a business for a certain amount of time.

Member Matise: Maybe he could not have rented it out as a business because of the condition of the building itself. We don't know what the condition of the building is and it has been vacant for a while.

Joy Guerrero: That is pretty much the case. The condition of the building is a really bad. Which is why I plan to do a full rehab.

Chairwoman Pearson: You bought the building knowing the condition. There are things here that we have codes that we have to go by and there's not enough square footage for an apartment on the first floor. You knew when you purchased it, it was in the B3. You also knew the condition of the building. So, there are 3 things already. And I'm going to say one other thing, we just denied someone 2 doors down from you want to put apartment on the first floor because that code is not there and it's not what we wanted for that district.

Member Raymondo: I agree.

Member Adams: I agree. It was purchased knowing what it was. The condition is probably bad inside. The renovation would be huge. There's not enough square footage and parking would also be a problem if they went with 2 apartments. You need parking for each apartment. It would be across the street and the requirement is on your own property. Plus the fact that this board has denied a downstairs apartment in the building in close proximity. So, that set a precedent.

Joy Guerrero: I'm trying to see what I can do with the property that I bought because I was being optimistic. I want to do something that I believe is an improvement.

Chairwoman Pearson: There are only certain things that can go there. If you want to put in a business, that's great. I can't advise you otherwise. I would like to, but maybe I'll talk to you personally about it.

Member Matise: Did we hear from any of the neighbors who would have received a notice?

Chairwoman Pearson: I haven't seen anybody on Facebook live. I have not heard of anything. Nothing. I don't get the notices. Do you have anything in your packet about the notices?

Attorney Dickover: The notice was the same as the one for Mr. Donnelly. Told the public where they could view this meeting and how they could submit written comment. There would have been a mailing.

Chairwoman Pearson: We haven't seen that paperwork back from the post office. Do you have that in your file?

Attorney Dickover: I do not have it. That's a good question. We need to know from the board secretary whether or not mailings went out for this.

Member Matise: It's the new procedure and we need to know if people are saying that they got a notice.

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Member Adams: I think Dean said in an e-mail that they had been sent out, which made me think that he had the proof that it was mailed. It was prior to the last meeting.

Chairwoman Pearson: I have the legal notice. If I don't find that, do we hold it open?

Attorney Dickover: I suggest we ask the applicant that if he has proof of his mailings with him and he can submit them to the Building Department. I we get them from the applicant. They bring them to the meeting.

Attorney Dickover: The Village does the mailings now and we're supposed to get something from the post office, that they've received them. But I don't see that in my package. What do we do?

Joy Guerrero: I have digital copies of the updated drawings. With the drawings, there is enough square footage for residential. I have done all the calculations for the square footage.

Attorney Dickover: We need to have proof of the mailings as well as proof of the publication made part of the board's record in this matter. If we don't have it this evening, we're going to have to hold a public hearing open. Make sure this was done appropriately. I think the meeting was going to be held open anyway for written public comment. In the meantime, if the applicant would like to get to the board, some dollars and cents proof as to why he cannot realize a reasonable return on his investment by using this property as permitted under the zoning provisions for all of the permitted uses. That is one of the things incumbent on him to prove to this board. We've heard nothing this evening with respect to dollars and cents proof on this use variance. This is a use variance, the criteria are the four factors. So far we've heard nothing with respect to that. In fairness, the applicant, if he would like an opportunity to present his dollars and cents as proof, the meeting is going to have to be held open any way for that. You do have some comments from members of the public in the Facebook chat.

Member Sciorca: *Referring to Facebook* we have Anthony Sassone, residing or owning 10 Scofield Street. He said "I'm in the same situation as I cannot rent my commercial space."

Member Matisse: So, that Mr. Sassone knows, it wouldn't be a change of zoning, it would just be a variance within the zoning that's there.

Chairwoman Pearson: We're going to hold the public hearing open to the next meeting. We need to see possibly your drawings with your square footage, why you have a hardship, financials of why you need to be able to have this happen to you. We don't have the list of the mailings from our Building Inspector. We need to get that list to have a complete meeting. If you want to give some information to the Building Inspector about the pictures of your drawings and how to meet square footage, financials of why we should approve this. How much money you have to spend. How much it costs. We need to see that in writing.

Member Matisse made a motion to hold the public hearing open until June 24, 2020 at 7:30pm or soon thereafter. Seconded by Member Raymondo. All ayes. Motion carried.

Member Matisse: You said you are planning to make this your residence.

Joy Guerrero: Yes, on the first floor. I don't fully understand all the financial, why does it matter? I don't have any mortgage.

Member Matisse: It matters because it's the state law. That's what the whole issue is about.

Chairwoman Pearson: We have criteria that we have to go by, that we can't vary from very often. So, we need all that information. Sometimes it works out and sometimes it doesn't.

B. FORMAL APPLICATIONS:

B.1

C. DISCUSSION ITEMS:

Chairwoman Pearson: I saw a webinar come through. I know they're supposed to be training. They canceled a couple of things, but there is a webinar coming.

Member Adams: I was signed up for the next 2 meetings, but Marisa told me today they've been canceled.

Chairwoman Pearson: I just received an email on that.

D. INFORMATION ITEMS: None

E. CORRESPONDENCE: None

3. COMMUNICATIONS: None

4. EXECUTIVE SESSION: None

MEETING ADJOURNED: Member Scieurca made a motion to adjourn. Seconded by Member Adams. All ayes. Motion carried.

RESPECTFULLY SUBMITTED
Marisa Kraus, Zoning Board Secretary
9:00pm