

Village of Walden
Zoning Board of Appeals Meeting
October 27, 2021

Chairwoman:	Rebecca Pearson	Present
Members:	Christine Scieurca	Present
	Mary Ellen Matise	Present
	Brenda Adams	Present
	William Sestrom	Present
Alternate Members:	Scott Barilli	Present
Building Inspector:	Dean Stickles	Present
Village Attorney:	Robert Dickover	Present
Secretary:	Marisa Kraus	Present

Chairwoman Pearson - Called the Zoning Board meeting to order at 6:30pm with the Pledge of Allegiance.

1. APPROVAL OF MINUTES:

Member Sestrom: The heading needs to be changed and on page 11 it refers to "Chairwoman Person".

Member Adams made a motion to approve September 22, 2021 Minutes with changes. Seconded by Member Scieurca. All ayes. Motion carried.

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1 150 East Main St. Continuance

John Fallon: There's an application for a use variance and I believe the prospective candidates have already told you what their intent was. 1 of the things which I had my client do is contact the builder to get an idea of how much it would cost to build a residence on this property. I guess before even the 1970s, this property has always been a commercial property. In 1994, an application was made before this board a use variance. Testimony was given at that time, showing that then and now it's impractical to think that you could build a house based on the conditions of the general area to make it profitable. I looked up the values that the tax assessor has given to the properties nearby. None of them more than \$235,000. Just to build this house would be \$285,000 and the property is right across the street from a lot of commercial properties. I don't think there's any way that they could ever possibly build a house here and have a return on their investment. The other thing which is important to realize is in 1994 and 2000 and in 2011, the Zoning Board gave variances for various other uses of the property. The use variance goes with the land. It's always been established that this is not economical to expect someone to build a house on the property. If you look at the history of it, you'll see that the Zoning Board always considered that a use variance was necessary. I think the applicant has the absolute right to believe that because the Zoning Board has granted those use variances in the past and has established to a history of time, that there is no economic good value in trying to put a 1 family residential house on this property. Therefore, I think the application should be granted.

Chairwoman Pearson: Dean, do you know when it changed to single family?

Building Inspector Stickles: As far as I remember, this property has only been in a single family zone. Even when it was a nursery. It was never a single family home.

Member Sestrom: If you could build it for \$285,000. The house next door just sold for \$330,000.

Member Matise: The infill house that Dickie Baxter just put in was listed at \$350,000 up the street. And it's a very small lot.

Member Adams: What was the purchase price of this piece of property?

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Jill Lampreau: I believe it was \$165,000 but I'm 100% sure. I have another building in Walden. Actually, I think it was \$230,000.

Member Adams: The assessment that you were quoting from the current assessments of other properties and what value was that? Was that full value? 80%?

John Fallon: That was full value on the records of the Town of Montgomery Tax Assessor as of June 2021. So when you add the purchase price of the land, plus the house, it's not going to make any profit.

Jill Lampreau: Plus, the other thing that they said was the materials and the time frame are so far out that it would probably be next year to even start anything.

Member Matise: What year was that?

Jill Lampreau: I purchased it at \$239,000 and according to this, it was March of 2006. It was supposed to have been purchased in Tycar Properties name and the attorney for some reason, it was registered in my name. The purchase price did not change. Just the deed changed with the name.

Member Adams: You bought this a single-family property. When you bought it, it was not commercial. It might have been used as commercial, but it was not zoned commercial.

John Fallon: Correct. It was never zoned commercial. But it's always been used as commercial.

Member Adams: And then the property went unused. The Village law is anything that is unoccupied and unused for 1 year, it goes to the zoning. Which means anything that is not occupied with a business in it after 1 year, then goes to the zone as the Village calls it. That's what the problem was. Your building went empty for over a year. With nothing in it. That's why we're in this situation.

Jill Lampreau: But I did try to have it approved for other things.

Member Scieurca: If my memory serves me correctly, the board had asked what has been now provided. Which is the financials. That's why ultimately we couldn't approve it. We had asked several times for financials to prove the hardship and that was never provided.

Jill Lampreau: I did send something in, I believe to Dean, but I'm not sure. We don't have financials on that building. All that I do is just pay bills on it. It's a loss and hardship for me, because it's just an expense.

Chairwoman Pearson: That's what we're looking for. We need to see that so that we can say there definitely is a hardship.

Jill Lampreau: It's also a hardship in turning that building into a residential. I can't do that. The time frame again that I would lose in trying to do that. In what Mr. Fallon presented, that alone should be enough of a hardship.

Chairwoman Pearson: This started in June and then you didn't come in July. We didn't have a meeting in August and then we didn't see you in September, so it's been since June that we've been waiting to do something.

Jill Lampreau: I was told that I could have a power of attorney sign so that my tenants could come in and speak on my behalf. That's what I did.

Chairwoman Pearson: That was June 23rd. And then at that meeting, we did say that we need to have you come in because you own the building. We don't know your finances. We do not know what you're paying or taking out. Your tenants aren't doing that. This is your building, your property. They don't have

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any control of what you're spending on that building. You may be getting rent from them, but we don't know any of that.

Jill Lampreau: I'm paying Village taxes. But you guys know that.

Chairwoman Pearson: No we don't. That's what we were talking about from June 23rd is that we need to see that in order to make these decisions. Your expenses and how much you're paying for gas, electric, everything else like that. How much of the loss that you are really having. What we've been asking for. Even the last time when you came to put something else in there, we have asked the same things.

Jill Lampreau: I don't have financials on it. I can provide you with the tax returns. That building has high taxes. Then levied for being vacant and I can't get approvals on it. It's a hardship because nobody's in there.

Member Matisse: I just looked up the GIS and tax information. Which truthfully, I wish you had given us copies of. 2006 you purchased and it was \$239,000. Then about 6 months later, sold it to yourself in the LLC. What Becky is telling you truthfully, is you have to show why it's a hardship and you have to show facts and figures. You have to give us specifics. Also, if you're using it as a tax write off, I don't know how that plays into that.

Jill Lampreau: It's not a tax write off. I'm on a disability income. I can hardly make ends meet to pay that building. That's why that building is of hardship for me.

Member Matisse: But you have to show us specific dollar amounts, with bills and receipts. You can't just come and say it's a hardship. Life is a hardship for everybody.

John Fallon: The hardship is that she can't use the building.

Member Matisse: She has to show dollar amounts. You should know that, you're the Chair for the Zoning Board for the Town.

John Fallon: But we're showing you that you can't possibly build a house on that property and make any return.

Chairwoman Pearson: There are other alternatives to building. You can sell it as a single family home to someone else if they wanted to purchase it. That's still not a hardship unless we can see her financials. She's paying x amount of this, x amount of that, x amount of this and that all adds up. And what her income is. So, we know that she definitely has a hardship.

John Fallon: She has no income from the property. The only thing she has from the building is her expenses.

Member Matisse: But we're not seeing that.

Member Barilli: We want to see some documentation.

Member Matisse: It's not just the tax returns. It's the carrying costs.

Jill Lampreau: The tax returns alone are a hardship, because I have no income. And that should suffice regardless of the carrying costs. I've been being billed by the Village for garbage and it hasn't even been used for however many years.

Member Adams: There was 1 other thing that we did ask for. During the period that it was not being rented to anyone, we asked for proof that you were trying to rent it. Copies of ads, bills that you placed

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ads in the newspaper to try to rent it. Which would have meant that it would have been rented quicker, possibly. So, that you wouldn't have lost that 1 year of no use.

Jill Lampreau: I'm trying to say, it was in front of this board, maybe not the same members and it was denied a couple times.

Member Adams: It's been denied in all cases, because it was 1 year from the time that it was used.

Jill Lampreau: I think it was denied because they didn't want it was going in there. I did put "for rent" signs up on the building.

Member Adams: So, you don't have any proof that you were out there with a realtor or anything trying to use that building, so that you continue the commercial use.

John Fallon: In 2011, a variance was approved on this property based on the fact that economically it could not be developed into residential. Part of the reason for granting the variance was the fact that all the other prior variances had been granted for this property,

Member Adams: The 1 year rule right is the problem that we're trying to get around. We're trying to ask for the information because the Village says that anytime something goes dormant for 1 year, it reverts back to the zoning as the Village has it. So, what's happened here was that when it went unoccupied and unused for over a year, it becomes a single family residence value.

Member Scurca: It does go back to a single family, but that's why they're here. Doesn't the board have the power to grant that use variance again provided that they meet the criteria?

Member Adams: If they supplied the criteria, they haven't supplied it yet. We don't have anything in front of us that shows the certified no revenue expenses.

John Fallon: We are saying that it has no income and the only thing is the expenses.

Member Matisse: We're just asking you to bring it in. Show it to us in writing.

John Fallon: We can return next month and will submit documents. We can send you these documents.

Chairwoman Pearson: I would love it sent to us.

Jill Lampreau: Is there any possible way we can have this sent to everybody before the next meeting?

John Fallon: We'll send it to them on Friday.

Jill Lampreau: Can we make an exception?

Chairwoman Pearson: Only if the board wants to meet in a different time.

Member Matisse: What you gave us has to be itemized.

Denise Gualtieri: Until you know what the size of the home, what the Village will allow, how can you do an itemized? This was based on just what an average sized home would cost. your name for the record?

Member Matisse: He has the square footage from the County GIS.

Denise Gualtieri: But until you get permits and what the current foundation would support on, if you were to build from there.

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Member Matise: He came up with the number of somehow.

Denise Gualtieri: That's based on average of what it would cost to turn that building into a single family home. 2 bedrooms, 1 baths, in the condition that it's in now. Once you bring in an engineer and architects, that building may have to be demolished completely. You don't know until that thorough evaluation of the current property is done.

Member Matise: That's all part of proving hardship.

Denise Gualtieri: I'm just saying, there's no way to get an exact number on the building.

Member Barilli: I get that you don't want to spend that kind of money until you know if you're going to get that variance.

Chairwoman Pearson: I think what you're looking for is a shorter timeframe before the next meeting to get us this information that we could have had a couple months ago, because we've discussed this many times with other issues with you as well, that what we need are financials and as we've said all along.

Jill Lampreau: I have an illness and a disability. It's very difficult for me some days and I'm not in this Town all the time. With that being said, it's difficult for me to gather, to make arrangements to get here and get everything together. Yes, I'm requesting that maybe we can do something prior to the next meeting.

Member Sestrom made a motion to enter executive session for attorney client discussion. Seconded by Member Matise. All ayes. Motion carried.

Member Adams made a motion to exit executive session and reconvene regular meeting. Seconded by Member Matise.

Chairwoman Pearson: We are looking for more information. We are willing to meet earlier if you get us the information.

John Fallon: The only expenses she has is the taxes. Water goes onto the taxes.

Chairwoman Pearson: She doesn't use anything? Electric?

Jill Lampreau: I haven't used anything because I haven't had anybody there. It's the minimum. What I don't understand is if it's a residential, why is the garbage put on my tax bill? All the other residences it's included.

John Fallon: The current tax bill \$9,590.00. And she had no income.

Chairwoman Pearson: What this board is looking for, in writing, on paper, is what we've been asking for all along. We're hopefully going to be getting it from you by the end of the week and we will schedule a meeting a little earlier. We've asked for this over and over and over and over again, this is not the first time we've asked for this. The last time you came before us, we've asked for the same things.

Jill Lampreau: The reason I can provide it now is because I had to put it together for a divorce.

Chairwoman Pearson: You have expenses on the building?

Jill Lampreau: Yes.

Member Adams: I think we need time to read it.

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Jill Lampreau: It's not very difficult because it's only 2019, 20 and 21. It's the taxes and a minimum water bill.

Chairwoman Pearson: But there are other things that we need to see as well while you're at it. You could sell the building. We need to know what the value of that building would be if you sold.

Jill Lampreau: I can't sell the building because I'm in the midst of a divorce.

Chairwoman Pearson: That's really what we're looking for, a market analysis of selling it, fixing it up and all of that put together in one form.

John Fallon: I'm not sure how you can get that if we don't know whether it's going to have to be analyzed for both the house, not knowing whether we're going to get a variance for commercial property.

Attorney Dickover: John, 1 thing that needs to be done, the application was made by the tenants, who clearly do not have the financial hardship necessary to obtain a use variance. My suggestion to remedy that problem is to have tenants assign this application back to the owner, who can claim that she has a financial hardship. She has to prove it. Please take care of that first step. The second thing that the board is wrestling with is, as you know, your client needs to prove that she cannot realize a reasonable economic return on this building if used under any of the allowable uses in the zoning district. The board is looking for proof that this property cannot realize a reasonably economic return under that use based on what she paid for the property and based on what the renovation of making it a single family residence. That doesn't have to be a full demolition. It could be converted back to a bare minimum single family residence. There's going to be some number that you could present to this board as confident financial evidence of what that would cost that the law requires them to get. I don't think it can be presented tonight. This board has asked the applicants, prospective tenants, for this information going back to the June meeting and the last time your client was before this board was a number of years ago and that variance was denied for the same reasons. We do not have any confident financial evidence of your inability to realize a reasonable return under the uses permitted under the zoning code. So, we're right back where we were a number of years ago.

John Fallon: We'll get you that information.

Chairwoman Pearson: The sooner you can get it to us, the better. Our next regular meeting is going to be on the 17th of November. Hopefully, we can do it then.

Denise Gualtieri: I'm 1 of the tenants. How can you ask for a cost to convert it back to residence when it never really was? It was never built as a family home. It's basically a garage with 3 bay doors on a concrete pad. It's always been for business use. I understand the zoning laws and rules are what they are and she needs to provide what she needs to provide. But I do feel like there are certain things that just don't make sense. He's not my attorney, so he can't explain this to me. I was wondering if maybe somebody can explain it to me. I know I'm not technically the 1 with the hardship, but we truly are, because we've now been in here and put in so much money and time and we've lost the entire summer. We are hoping to be open by Christmas. At least we can try to salvage something. Try to make some money to get back something. We're just trying to do something good for the community. We've been spending our time over the past couple of months giving back to the community because we can't do anything other than that.

Chairwoman Pearson: We are struggling. We understand it and we get it. But there are rules. There are laws and things that we have to abide by. And we just can't just say, okay, because then the next person that comes before us, they're going to say you did it for them. That the reason why we keep asking since June of what we're looking for and we've said it over and over and over again what we need. And before June, when the same owner came for the last applicant and knew exactly what she needs to bring the last time. It's very hard for us because we feel for everyone that comes here. We truly do. We want to help everybody. We want it to work. We are guided by our laws that we can only do. We would love to do

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this, but we are following state law. As soon as you can get that information to us, that's going to help. and we will hopefully move forward.

Denise Gualtieri: Going back to my original question, how do you get an estimate for something that never was? If it truly was a single family residence and it was lived in and occupied as such. Then it used as a business. Like the building next door because that is at home and now it's office use. But it never was, so it can't be converted just as easily. The building has never been deemed sufficient to live in.

Chairwoman Pearson: I'm not sure how you would do that.

Denise Gualtieri: That's what the estimate was based on that she did provide. You never know until you get all the documentation. You have to find out what will be approved there, what size home, how big and then you have to get the architecture, the engineers.

Chairwoman Pearson: What she brought us today was a start and we need more than this. Columns of what's coming in, what's going out. Maybe nothing. If she has it all on paper, great, get it to us soon. If she already has that done, that should have come with you tonight. You should've given it to the attorney. Those are the things we have been asking for.

Denise Gualtieri: Now since we've been occupying the building but not able to use it. We've been paying the bills on it, the utilities. We can provide that. But 1 of the issues that we have right now from our personal standpoint is that the garbage. When we call to transfer it over into our name, they said we have to pay the business use. I said that it's in a residential area.

Chairwoman Pearson: That you're going to have to take up with the Village.

Member Barilli: What are the monthly expenses? Write that down. Put that on paper.

Jill Lampreau: Can we meet prior to November 17th? I have treatment and it's in Sarasota.

Chairwoman Pearson: We have to publicly notice any meaning. It needs 10 days. We're still 10 days out from whenever you get us the paperwork. We won't do anything until you get us the paperwork.

Jill Lampreau: Okay.

Chairwoman Pearson: I can't say that's going to be any sooner than the 17th, because we still need the post it. We'll let you know when.

Jill Lampreau: If the next meeting is the 17th and it's not approved prior to that, can my lawyer represent me?

Attorney Dickover: It's up to her, she's the applicant.

Chairwoman Pearson: As long as you have all the information to your attorney, we're good to go.

Member Adams made a motion to keep public hearing open. Seconded by Member Scieurca. All ayes. Motion carried.

B. FORMAL APPLICATIONS:

C. DISCUSSION ITEMS:

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Chairwoman Pearson: I did send out some training for Marisa to pass around. Thank you. There is 1 tomorrow night for Rockland County. It's on Zoom.

D. INFORMATION ITEMS: None

E. CORRESPONDENCE: None

3. COMMUNICATIONS: None

4. EXECUTIVE SESSION: None

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

RESPECTFULLY SUBMITTED
Marisa Kraus, Zoning Board Secretary
7:38pm