

Village of Walden
Zoning Board of Appeals Meeting
May 24, 2023

Chairwoman:	Brenda Adams	Present
Members:	Christine Scieurca	Absent
	Mary Ellen Matise	Present
	William Sestrom	Present
	Scott Barilli	Present
Alternate Members:	Lisa Mazzeli	Present
Building Inspector:		Absent
Village Attorney:	Robert Dickover	Present
Secretary:	Marisa Kraus	Present

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

1. APPROVAL OF MINUTES:

April 26, 2023

Member Barilli made a motion to approve the April 26, 2023 minutes. Seconded by member Sestrom. All ayes. Motion carried.

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1 20 Ulster Ave

Member Sestrom made a motion to reopen the public hearing for 20 Ulster Ave. Seconded by Member Barilli. All ayes. Motion carried.

Bryan Paz: I'm going to ask you to adjourn this public hearing. The reason for that request and first of all, I want to thank the ZBA for all your courtesy and consideration to date for this applicant and on this application. Having said that, we're asking for this matter to be put over to June meeting, and primarily because we received information from the Building Department Jacobowitz and Associates have not been able to independently verify that information and they want to do that before submitting that to this board. They want to make sure that the information they learned is accurate and correct. The intention here would be to file on this application as well as the following public hearing application, amended application and those amended applications would be timely filed so that the June meeting could go forward. And just because we know the board has been so courteous to this applicant we are offering to pay for the publication and the cost of mailing out to any necessary authority. We wanted to put this all up front because we didn't want to waste any more time.

Chairwoman Adams: Did you bring any proof of evidence?

Bryan Paz: I don't have anything and I apologize. I didn't know I'd be here until about a half hour ago. Miss. Mr. Jacobowitz intended to be here. He's not feeling well. He is almost 89 years old. Just so everyone is clear, Jacobowitz and Associates has only recently been retained within the last 30 days. While there was discussion with the applicant, the actual formal retainer agreement, etc. was only, I believe received within less than the last 30 days. I just want that information before the board. They know they need to amend the application. So, once that's done, they'll be ready, Jacobowitz and Associates, to move forward for the applicant on the amended application.

Chairwoman Adams: Do you know exactly what they're going to go for? Because it seemed like when he spoke to us it was different than what he put in his application.

Bryan Paz: Unfortunately, I don't have that information with me. I'm sure the amended application will make that very clear and I was specifically told that will be filed in a timely manner so that this matter can

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be on the June public hearing calendar and the next the 108-110 one that we're not yet to will be looking to put that on to the July hearing.

Chairwoman Adams: I responded to Mr. Jacobowitz this afternoon.

Bryan Paz: I have a copy, I think, of that.

Chairwoman Adams: We've gone back and forth several times since last week and I felt that there must be something that you have to offer us in good faith. This has been going on for months. I feel like you're not, not you personally, your client is not acting in good faith.

Bryan Paz: I don't believe that's the situation. I understand exactly where you're coming from. But now that we are representing, Jacobowitz and Associates are representing the client, the representation by us, that they've recently received information from the Building Department that they want to independently verify and they haven't yet been able to do that. They will be able to do that and file the amended application so that it can be put on for the continued public hearing for the June meeting.

Member Matise: The information that we the applicant has received just recently, when did he receive it?

Bryan Paz: I don't have the exact date.

Member Matise: If he received it 2 weeks ago and now we're just sitting here, totally in the dark.

Bryan Paz: I understand that. That's one of the reasons why the applicant, on behalf of the applicant, we are offering to pay for the publication and the mail.

Member Matise: If the information he received from the Building Department is substantially different from the prior information that the Building Inspector gave him regarding his property, is it then maybe not a new application?

Bryan Paz: I don't know exactly, and you can, when you receive the amended application if you determine you should have gotten a new application, I'm sure you can tell the applicant that. As of right now, I'm told they're looking to make an amended application. I do know that you folks can arguably extend a public hearing and that you've extended courtesy, I'm asking for one last one that will allow. They don't want to come here and provide incorrect or inaccurate information to you folks. That's why they want to verify that information and then based upon verifying that information, they'll make an amended application that I'm assuming will be consistent if the information learned is accurate with that information, if it's learned inaccurate, it will be consistent with what they learned.

Member Sestrom: This poor gentleman has been sent here to pinch hit. We have two choices here. Either deny the whole thing and make him start it over. Or allow him to continue. I say it's better if we let him continue.

Member Mazzeli: I'm just wondering how long your client would like it to go on. The reason why I say that is because he does own properties here, even familiarity, you kind of know this paperwork. You know what I'm saying? I'm on my second house and I know this type of work. He should be generally familiar with the area of what may be required if he is owning of the property. It's a good general knowledge. It's a healthy one. It was very incomplete, if I remember correctly. What he did try to submit. It was a little bit of a surprise because we know that he has other properties. I'm just wondering if he does an amended application and there's problem that we have to start over.

Bryan Paz: He won't be doing the amended application. The attorneys will be the amended application on his behalf. That was obviously part of the problem.

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Member Mazzeli: Then there's an assurance this will be more thorough and we won't have to postpone it.

Bryan Paz: Understanding and belief is and that's why we're asking for June and July so we can get the one in correct and make sure that's all done correctly so you folks don't have to go through this more than the June meeting again. Then the other matter, the 108-110, which we want to see put on for July, we'll get that amended application in a timely manner, etc.

Member Mazzeli: I know that he does have plans.

Member Barilli: Is he going to end up starting over or going to continue. It's really the difference. Might as well continue it.

Chairwoman Adams: Mr. Paz, you know how hard it is to get use variance. Your client was pretty honest with us the first time around. The one factor is self-created. He did acknowledge he knew what the zoning was. You're offering to pay for mailings and things. but this is a continuation, there would be no mailings.

Bryan Paz: If there are no mailings then we're not going to pay, but if there is need for a mailing, for any necessary properties, then we're willing to pay for that.

Attorney Dickover: It'll depend on the nature and terms of the amended petition. If it's amended. If it's significantly different than what the board has in front of you, it would have to be renoticed and republished.

Chairwoman Adams: So, this would be a withdraw?

Attorney Dickover: That would be an option that they might have, yes.

Chairwoman Adams: Can this be done timely? If we had to go with a new application, the whole process of mailing and sending it to the county.

Bryan Paz: That's why I say let's do the amended application and if you folks looked at it and you believe that it's beyond simply an amended application and that it's a completely new application, then you'll let them know. But if we could put it on the June as a continuation. My notes indicate amended application.

Chairwoman Adams: We're not picking on you. We have been frustrated. If you've been reading those e-mails, then you know that we had a series of events that was taking place.

Bryan Paz: Mr. Jacobowitz would be here, but for not feeling well. He would be able to answer most of your questions much better than I can. So, I apologize for that.

Chairwoman Adams: You don't have to apologize, that's part of life.

Member Matise: I have a concern about keeping it open because I would like to have the Building Inspector's information to us before I made a decision to keep it open. I want to know what Dean is saying that is causing them to think they need an amended application.

Chairwoman Adams: I spoke to Dean several times, but he did not say that there was anything unusual that was asked for.

Kathy Greak: I'm just frustrated because this has been going on since February. I've taken off of work to be here as a neighbor. March they did not show up. They cancelled. I was here. Last month, they did not show up. I was here. Tonight. I am here again. They send an attorney. Which is fine but I really wish that it would be closed and let them reapply a new application at this point. The last meeting, you had given them a deadline to submit all the paperwork. Did you guys ever get that?

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Chairwoman Adams: No.

Kathy Greak: That right there is kind of proof that they're not serious.

Bryan Paz: If I can address that. They're serious because he's now he retained council. I'm here. Unfortunately, I don't know if you've ever made an application for a use variance to the municipality, but it's not a simple, straightforward project.

Kathy Greak: I understand that. But I leave work to be here. Are you willing to pay my salary?

Chairwoman Adams: That we can't get into.

Kathy Greak: I'm just saying, I would just like it to be shut down tonight and restarted fresh. I think that's the way it should go. Thank you.

Chairwoman Adams: I would like to do this for 20 Ulster but not discuss 108. Can discuss that separately. I'd like to go into executive session.

Member Matisse made a motion to enter executive session to discuss matters pertaining to 20 Ulster Ave. Seconded by Member Sestrom. All ayes. Motion carried.

Chairwoman Adams: In speaking with our attorney, we are going to extend both 20 Ulster and 108-110 Orange Ave to June. We're going to have whatever information you intend to submit to us by June 14th so that the Building Inspector can get it out to us, so we can have time to read it and know what direction you or Mr. Jacobowitz, whoever is going to represent them that night, the direction you're going in. What you actually want. That have a clear understanding of what you're interested in 108-110 Orange. 20 Ulster was a little vague. But unless things have changed for that one also. We're going to extend this to the June 28th Zoning Board meeting with a deadline of June 14th to get the paperwork into the Building Inspector with both properties. At that time, I don't know if we're going to continue further.

Attorney Dickover: Just for purposes of the record on Orange Avenue, would the board want to incorporate the comments made by Mr. Paz, on the Ulster Avenue application to the Orange Avenue application. So, we don't have to hear it again.

Chairwoman Adams: Yes, that would be fine.

Attorney Dickover: Mr. Paz should be advised that at the February meeting, when your client when your client was first here, he has put in an admission in front of this board that he knew that the zoning was non-compliant on these buildings at the time he purchased the premises. He had been advised of that by the Building Inspector. Whether or not that's in writing, I don't know, but he was aware of that. Most applications for use variances that is considered to be a fatal admission to a use variance. You probably want to discuss that with your client. If a decision is made to withdraw your applications, with that information in hand. I think the board would want to know that by June 14th as well.

Bryan Paz: And this admission was as to 20 Ulster, 108-110 Orange?

Attorney Dickover: Both.

Chairwoman Adams: He said he knew what the zoning was when he bought it.

Bryan Paz: I appreciate that. June 28th, you want any information by June 14th. And there's better chance than not that it won't go beyond the June 28th meeting.

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Chairwoman Adams: Correct.

Bryan Paz: I'll relay all of that information. As well as the fact that at the February meeting there may have been an admission as to.

Member Matisse: Marisa, the minutes are online?

Secretary Kraus: Yes.

Member Matisse: You could download the minutes.

Bryan Paz: Sure. Thank you.

Member Sestrom made a motion to continue the public hearing to June 28, 2023. Seconded by Member Barilli. All ayes. Motion carried.

A.2 108-110 Orange Ave

Comments made by Mr. Paz on the Ulster Avenue application to the Orange Avenue application are incorporated

B. FORMAL APPLICATIONS:

B.1 20 Ulster Ave, Use Variance

B.2 108-110 Orange Ave, Use Variance

B.3 17 Oak St, Resolution Approval

Member Sestrom made a motion to approve the resolution for 17 Oak St as drafted by the attorney. Seconded by Member Barilli. All ayes. Motion carried.

C. DISCUSSION ITEMS:

D. INFORMATION ITEMS: None

E. CORRESPONDENCE: None

3. COMMUNICATIONS: None

4. EXECUTIVE SESSION: None

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

Pm 7:09

RESPECTFULLY SUBMITTED

Marisa Kraus, Zoning Board Secretary