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Mt. Kisco Weighs Policy Revisions to Bolster Code Enforcement

DECEMBER 4, 2018 BY NEAL RENTZ

An issue that has been a longstanding problem in Mount Kisco may finally be addressed in the near future.

The Village Board is considering policy changes for stricter enforcement of the municipality's building, fire and zoning codes to better protect the public.

"We want to clearly state that the village will not compromise safety especially when it comes to New York State building and fire codes," said Mayor Gina Picinich. "It is important that we enforce our local zoning code."

Over the years there has been repeated concern regarding some property owners who have violated the zoning code. For example, there have been landlords who have owned a three-family house in a zone that permits one-family residences, Picinich said.

"Our Building Department will work with property owners to ensure they understand their path forward," she said. "In most instances full remediation, including restoration to legal zoning, will be required."

There would be few exceptions under a revised policy, the mayor said. There are a limited number of properties that were purchased based on erroneous documentation. In those instances, the village may permit the non-conforming situation to continue until ownership changes. Once that property is sold, however, it would be required to comply with legal zoning, Picinich said.

The Village Board has been working with Village Attorney Whitney Singleton and the Building Department during the past year to improve enforcement.

Picinich said under the revised policy, a Certificate of Occupancy would be revoked if a property runs afoul of building, fire or zoning codes and are not corrected.

Another proposed policy would be for properties with a pre-existing, non-conforming condition to obtain a variance from the Zoning Board of Appeals for future changes, she said. If that doesn't occur, the village would take legal action, Picinich said.

Picinich said the trustees are considering an appeal process in which property owners challenging a ruling by the building inspector could go before the ZBA or initiate legal proceedings to overturn the decision. Challenges of state code would have to be appealed through the state.

Tenants living in an illegal building would be given ample time to relocate.

The board has been working for years to deal with the safety issues, said Deputy Mayor Jean Farber.

"This is the sanest document we've come up with," she said.

It is not known exactly how many illegal properties there are in Mount Kisco as there are ongoing inspections and reviews, Picinich said. During the past year the Building Department has stepped up enforcement of building and zoning codes, she said.

Trustee Karen Schleimer said she is concerned for the property owners who may have bought a multifamily house believing they had a valid Certificate of Occupancy based on wrong information. It would be likely they could never sell their house for anywhere near the price they bought it for unless they spend an enormous sum for it to be code compliant.

As a real estate attorney, Schleimer said that when a title company provides her with a copy of the Certificate of Occupancy, she assumes it is valid.

"My comments do not apply to owners who make illegal alterations to their properties nor to situations where there is an issue as to safety," Schleimer said. "Those must be corrected. My concern is only for the innocent purchaser who will have no remedy but suing the village, the realtor or their attorney."

But Farber and Picinich said real estate agents go into building inspectors' offices on a regular basis to ensure the legality of a Certificate of Occupancy.

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