

Village of Walden
Zoning Board of Appeals Meeting
November 06, 2014

Chairwoman:	Brenda Adams	Present
Members:	Rebecca Pearson	Present
	Carolyn Wesenberg	Absent
	Oscar Alleyne	Present
	Gregory Raymondo	Present
Alternate Members:	Faith Moore	Present
Building Inspector:	Dean Stickles	Present
Village Attorney:	Robert Dickover	Present
Secretary:	Nancy LaMancuso	Present

Chairwoman Adams - Called the Zoning Board meeting to order at 7:30pm. Member Wesenberg is absent, Member Moore will fill in.

1. APPROVAL OF MINUTES:

Chairwoman Adams – Approval of minutes for 09/04/14, minor correction(s) will be made.

**Member Alleyne, made Motion to accept Zoning Board of Appeals Minutes of 09/04/14
Seconded by Member Raymondo, with all members voting yes
(Member Pearson abstained/was not at the meeting).**

Chairwoman Adams – Approval of minutes for 10/02/14, minor correction(s) will be made.

**Member Pearson, made Motion to accept Zoning Board of Appeals Minutes of 10/02/14
Seconded by Member Moore, with all members voting yes
(Member Alleyne abstained/was not at the meeting).**

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1 84 Walnut Street

Chairwoman Adams – Read the Public Notice for Section 309 Block 18 Lot 22, R-5 Zoning District.

Member Pearson and Member Moore - Counted Mailings; mailed 56, returned 34, not picked up 22.

Anthony DiSimone, property owner – My property is on the corner of Walnut Street and Millard Avenue and my 2 car driveway is on the hill of Millard. I would like to put an additional driveway in to alleviate the traffic problems on the street and the parking congestion. When drivers try turning at the intersection it is very hard to see the other traffic, it's narrow and on a curve. Also snow removal in the winter, we have 4 cars I, my wife and 2 children each have a car and it's very hard to put 4 cars in a 2 car driveway to get them off the street when it is snowing and for snow removal purposes. Right now we park on the grass/lawn and it doesn't look good and is damaging the property. Parking is very limited in the area and other people end up parking in front of my house and then my family doesn't have on street parking available in front of our house.

Chairwoman Adams – In your application you mentioned that need for this is something about the Village of Walden owns the first 10 feet?

Village of Walden
Zoning Board of Appeals Meeting
November 06, 2014

Anthony DiSimone— I was told that the first 10 feet of the property is owned by the Village. I bought my house 12 years ago and on the first 10 feet there was a tree that was on my house so I call the Village and they sent somebody up to measure and they said yes this is the Villages tree and the Village did cut it down. So I was told that even though you're responsible the property the Village still owns the first 10 feet of the property and is responsible for it.

Member Pearson – Is that on the Walnut Street side?

Anthony DiSimone— That was on the Millard Avenue Side.

Chairwoman Adams – Are you saying that you have to ask for 30 feet because of the 10 feet?

Anthony DiSimone— No the driveway would be 10' X 30', which would be enough to park a couple of cars in it.

Chairwoman Adams – I'm not sure of why the mention of the 10' was in the application. It says in the application that the zoning was not self-created as first 10' of the property is considered Village property. I'm trying to figure out how that fit in to the big picture.

Anthony DiSimone— If the Village owns the first 10' then I thought I had to ask the Village before I can do anything, unless I am misunderstanding the question.

Member Pearson – The driveway you have now is the same dimension as this application?

Anthony DiSimone— No, I have a driveway that fits 2 cars and I also have a garage.

Member Pearson – The driveway is on the Millard Avenue side. I was confused by them calling it a front yard because the house to me is on Walnut Street.

Chairwoman Adams – It's a corner lot and therefore a corner lot always has 2 front yards.

Anthony DiSimone— If I do this I want to make this look nice esthetically. What's happening now is damaging the lawn and property and doesn't look good. I've had to bring in a tilling machine to repair the yard, the cars keep sinking and I then need to call a tow truck and I go through this every year.

Member Raymondo – Are you doing it with concrete?

Anthony DiSimone— My other driveway is concrete and this will make it look nice and match.

Member Raymondo – In the letter sent to you by Building Inspector Stickles you were talking about a 27' X 10'?

Anthony DiSimone— That was an estimate.

Member Pearson – Is it going to be stepped or are you going to make it level to the current driveway? You're going to level it out to be even with the current driveway?

Anthony DiSimone— It's going to be next to the current driveway. It's not going to be a stepped, Millard Avenue is hill. It's going to be perpendicular to street. I had Vern Spencer looking at it and he will do the best he can to make it level.

Chairwoman Adams – Are you going to build a retaining wall.

Anthony DiSimone— If need be I will.

Village of Walden
Zoning Board of Appeals Meeting
November 06, 2014

Chairwoman Adams – It's going to be lower than the current driveway.

Anthony DiSimone– It will be the first driveway when you're going up the hill on Millard Avenue.

Chairwoman Adams – It almost sounds like you're going to need 2 retaining walls, one between the 2 driveways and one below the new driveway if the second driveway is going to be lower that first retaining wall will need to be fixed.

Anthony DiSimone– If needed he will match it up to the stone work on the property so it looks nice, he also did my patio.

Member Pearson – I get the whole parking thing, the Catholic Church had taken the parking away up the street on the right side. There is also another house at the top of the hill that has a double driveway on the right at the corner of Millard Avenue and Gladstone Avenue.

Chairwoman Adams – What about the water run off I'm very concern about that?

Anthony DiSimone– It will be pitched so the water run off just like the existing driveway does have a slight pitch so it goes down the street. I'm the last house on the hill and the water will go right into the sewer, there is plenty of drainage in front of my property.

Attorney Dickover – I'm looking at the 5 factors that the applicant needs to consider, one was addressed. Are there any other homes in the area other than the one up the hill that has more than 1 driveway?

Mary Ellen Matise – Yes, Stephaine Collins, 88 Walnut Street across the street on the opposite corner of Walnut Street and Millard Avenue but has an address on Walnut Street has the garage next to Mr. DiSimones garage which is a double wide garage with a double wide driveway. Also the Mills house up on Gladstone Avenue has a driveway that's on Millard Avenue and Spencer on the other Corner of Millard Avenue and Gladstone Avenue has a double wide driveway which is on Millard Avenue. There is no house or lot that has an address on Millard Avenue its only driveways.

Attorney Dickover – Looking at the drawing submitted with the application, I don't understand the dimensions that you're asking for as far as the size of this driveway is concerned. If the Board were to grant your application they would need to know what size it is going to be. The drawing seems to be backwards?

Anthony DiSimone – It should be the other way.

Attorney Dickover – Then it will be 10' wide and 30' long/deep. In the drawing would it be fair to say it is not drawn to scale?

Anthony DiSimone – Correct, it's not to scale, it was just something for the Board to look at.

Attorney Dickover – Chairwoman Adams the pictures being examined should be numbered as exhibits being considered by the Board in its determination and added to the record.

Chairwoman Adams – There are 3 pictures presented as exhibits. Any questions/comments by the Board? None noted.

A.2 155 West Main Street

Chairwoman Adams – Read the Public Notice for Section 308 Block 3 Lot 1, B-2 Village Business Zoning District.

Village of Walden
Zoning Board of Appeals Meeting
November 06, 2014

Member Pearson and Member Raymondo - Count Mailings; mailed 38, returned 21, not picked up 17.

Chairwoman Adams – Attorney Dickover the property owner, Mr. Mike Broas has granted Dina Bryant who is the State Farm Agent be here and we have the gentleman who is going to do the signs but no representative from State Farm.

Attorney Dickover – The authorization from the owner to the tenant applies to the tenant and her agents, so his testimony is admissible and be received by the Board in support of the application.

Brian O'Connor, Frohling Sign Company, Nanuet, NY, representative for the applicant State Farm – We are requesting an Area Variance of the zoning code to reface 2 non-conforming signs that are on the property. State Farm has changed their logo and is asking all their agents to comply with the new logo and colors. We are requesting to reface the existing triangular shaped sign that is on the corner, the location and size will remain the same, we will be putting new panels in to replace the existing aluminum panels. There is also a free standing sign that is under a covered porch area to indicate the actual entrance to the office, we're replacing that sign and it will remain the same size and at the same location. We are also replacing the free standing letters that are mounted to the building, although this is not part of the application (presented pictures of the existing signs and the new signs with new logo and colors).

Chairwoman Adams – So there will be no changes to the signs they will be the same size and location, except for the logo and colors.

Brian O'Connor– Correct, it will be the new State Farm logo. The current signs are more of a redwood color and the new colors will be red, black and white.

Member Pearson – Are you adding lighting or anything else?

Brian O'Connor– No.

Chairwoman Adams – Building Inspector Stickles is the sign any less conforming to the new sign law than the old sign.

Building Inspector Stickles – It is a non-conforming, when they touch it to change the sign that's what triggers the applicant having to come before the Zoning Board. The sign is not going to change in size or location it is just the new panels going into it.

Chairwoman Adams – Does the new sign law change this to be any differently non-conforming?

Building Inspector Stickles – No, the sign under the canopy that's a sign that is not currently allowed anywhere, so the applicant is looking for a variance for that sign to become allowed.

Attorney Dickover – When you approve a non-conforming sign it will be virtue of your variance or approval become conforming. Your code provisions say pre-existing non-conforming signs which this is which are altered, relocated or replaced shall immediately comply with all provisions of the law. That's what the applicant is asking to do.

Chairwoman Adams – So it will become conforming if the Board approves it and if they have to have a new logo for example 10 years down the road due to State Farms request they can just change it with no problem?

Attorney Dickover – It will depend on the nature of the request and what the sign laws say at that time.

Member Raymondo – If it becomes conforming does it meet the new sign law?

Village of Walden
Zoning Board of Appeals Meeting
November 06, 2014

Member Pearson – No.

Member Raymondo – So it still is a non-conforming sign.

Chairwoman Adams – Your reading the law that says if we change it then it becomes conforming.

Member Pearson – That's why the applicant is here.

Member Raymondo – What would the applicant have to do to conform to the current law?

Building Inspector Stickles – It would have to meet all the setbacks and requirements of the sign code. That would require the applicant to move the sign to make it conforming. They want to leave it where it is and allow for the panels to be changed.

Brian O'Connor – To make that sign conforming to the zoning law we would actually have to move it back into one of the parking spaces, which they don't have many parking spaces at the office to begin with so they would be losing a parking space.

Member Alleyne – So you are looking for 2 variances with this one request?

Member Raymondo – But the one is not allowed.

Member Alleyne – By virtue of acting on it the Board is essentially making it allowable and in both instances neither of the meet the current law.

Member Pearson – This is why the Zoning Board is here. Not all the signs are going to meet the law and if people want to try and change it then it is the Boards job to do that if we can or not, however we feel about the application request.

Chairwoman Adams – It should be mentioned that it is located in a business set where on the other side of the street are stores with signs that may comply or not but there are only businesses with apartments over the top of them. So there really are no adverse physical, environmental effects.

Member Pearson – Building Inspector Stickles do you know with the new sign law what the height is for the triangular sign?

Building Inspector Stickles – 18 feet.

Brian O'Connor – And this is lower than the 18 feet.

Member Raymondo – The sign under the canopy when was it put there?

Building Inspector Stickles – Probably when State Farm was there for years.

Member Pearson – So they just kind of threw it up there?

Attorney Dickover – Chairwoman Adams the pictures being examined should be numbered as exhibits being considered by the Board in its determination and added to the record.

Chairwoman Adams – There are 5 photos and 5 design prints presented as exhibits. Any questions/comments by the Board? None noted.

Member Pearson, made motion to open the Public Hearing

Village of Walden
Zoning Board of Appeals Meeting
November 06, 2014

Seconded by Member Moore, All Ayes, Motion Carried

Mary Ellen Matise – I was just there the other day I took my mother to pay her bill and I never really noticed that sign as being a problem at all. It's not a sight obstruction you can pull in and out easily. It is not an issue like a lot of our other signs are it's interesting that it is non-conforming.

Member Pearson – My other thought on the new sign law too was the amount of wording and phone numbers and names are supposed to be on it?

Building Inspector Stickles – They took all that out.

Member Pearson – So they can put that information on the sign?

Building Inspector Stickles – Yes, logos and all that can be put on. This sign that State Farm has here would be allowed under the old code, Dina Bryant State Farm Insurance that is the name of the business, the telephone number and then the 911 address. Those aspects have been modified.

Chairwoman Adams – Any questions/comments by the Board? None noted.

**Member Pearson, made motion to close the Public Hearing
Seconded by Member Alleyne, All Ayes, Motion Carried**

B. FORMAL APPLICATIONS:

B.1 84 Walnut Street, Area Variance

**Member Raymondo, made motion to open the Public Hearing,
Seconded by Member Pearson, All Ayes, Motion Carried**

Chairwoman Adams – Any questions/comments by the Public?

Mary Ellen Matise – This issue at the corners on Walnut Street and Gladstone Avenue is really bad. I don't know if Millard Avenue has parking on it, I think it does there's no signs that say no parking.

Building Inspector Stickles – Yes, there is parking.

Mary Ellen Matise – Great so people can park on either side going up the hill. People don't usually park there permanently, I've seen them park there temporarily. Then it does make it hard for people to go up and down because it is pretty steep. Because there are no houses per say on Millard Avenue the only thing it is used for is cross street to get between Gladstone Avenue and Walnut Street and for people to access their driveways. In fact there is a right of way behind Stephine Collins, 88 Walnut Street house that is blocked by unlicensed cars that I think at one time it was used for coal trucks to access the houses on Walnut Street going up the street. It is an abandoned right a way there is a curb cut there, there is virtually not much space for parking on Millard Avenue and the street really is only used to access driveways. So if you're doing a long driveway it shouldn't be any problem at all except eliminate one more parking space that nobody parks in anyway.

Chairwoman Adams – Any questions/comments by the Board? None noted.

**Member Alleyne, made motion to close the Public Hearing
Seconded by Member Moore, All Ayes, Motion Carried**

Village of Walden
Zoning Board of Appeals Meeting
November 06, 2014

Chairwoman Adams – We have a situation for adding a driveway but we don't have a design on the retaining wall and I feel the Board would have to put that in as a condition of doing the driveway. Building Inspector Stickles would you like to see the design of the retaining wall before this is approved?

Building Inspector Stickles – I would think the Board would want to see all the aspects that are going to go into this parking area before it is approved, design of a retaining wall, where the drainage is going to be, all of that. Right now there is a impervious surface which is a lawn and you're going to create a concrete driveway, where is the water on that going to run off to? Out into the street, down his lawn, is it going to affect the neighbors across Walnut Street?

Chairwoman Adams – Does the Board agree that we should postpone this decision until the next meeting in on 12/04/14? So the applicant can come back with some plans, drawing and specifications, dimensions of the area, drainage, retaining wall, steps that are there and a sections between the driveway.

**Chairwoman Adams, made motion to postpone this decision until the Board has further information from the applicant
Seconded by Member Alleyne, All Ayes, Motion Carried**

Chairwoman Adams – Orange County Planning said this was a local determination.

B.2 155 West Main Street, Area Variance

Chairwoman Adams – Orange County Planning said this was a local determination.

Attorney Dickover – Chairwoman Adams for SEQRA purposes if the Board at this point were to declare itself Lead Agency we could resolve to conduct as an Uncoordinated Review and this would be a Type Two Action. Project falls into the category 13, it's a variance for signage and that would conclude the SEQRA review.

Chairwoman Adams – Any questions/comments by the Board?

Member Pearson – I understand where Member Raymondo is coming from, we have sign laws that are not conforming and when the business changes them they are supposed to conform. The reason for the sign law is to have it conform.

Building Inspector Stickles – I also think that in all defenses that some signs will never be able to conform.

Member Pearson – I understand that. But I understand where Member Raymondo was coming from when he asked that question. Because what is the purpose of that and the purpose is that it will then become conforming. Whether you want that to carry on forever than that is fine.

Building Inspector Stickles – Basically the sign that the Board approve now is exactly the same size sign it is now, if they were to change it in the future other than just the sign panels it would have to come before this Board. It doesn't make it a conforming sign.

Member Pearson – It's a conforming non-conforming sign?

Building Inspector Stickles – Right, which doesn't make any sense but it's true.

Member Alleyne – It becomes conforming because our variance permits it to occur.

Member Pearson – Yes, but if someone else moves in there they use that same sign they can just put new panels up.

Village of Walden
Zoning Board of Appeals Meeting
November 06, 2014

Building Inspector Stickles – As long as they are exactly the same size.

Member Raymondo – And it would still be non-conforming.

Building Inspector Stickles – But if they wanted to raise it in height, move it around they would have to come before this Board.

Member Raymondo – So by the Board approving it, it still non-conforming.

Building Inspector Stickles – It's a conforming, non-conforming sign.

Member Pearson – Does it have to go before the Architectural Review Board for the colors?

Building Inspector Stickles – It should and the applicant has put an application in for the Architectural Review Board.

Member Pearson – Is the color part of the Architectural Review Board approved colors?

Building Inspector Stickles – Yes it is. It is Benjamin Moore Historical colors or approved equal, which is what the Planning Board adopted recently.

Chairwoman Adams – Any questions/comments by the Board? None noted.

Attorney Dickover – This is actually number 2 with a Type Two List called, replacement, rehabilitation or reconstruction of a structure which a sign is in kind on the same site.

Chairwoman Adams – **We need a motion for a SEQRA Type Two action, making the Zoning Board as the Lead Agency Uncoordinated Review and no further SEQRA review is required.**

**Member Pearson made motion as stated above by Chairwoman Adams
Seconded by Member Moore, All Ayes, Motion Carried**

Chairwoman Adams – The Area Variance requirements;

The benefit achieved by other means; they would lose a parking space if they were make it conform to the current sign laws.

Undesirable change in the neighborhood or to nearby properties; basically there would be no change to current conditions.

The request is not substantial.

Member Pearson – There would be a change in color dull red to a bright red.

Chairwoman Adams – You feel its substantial?

Member Pearson – Yes I do. I think there are different variances of colors. The applicant is probably doing it to make the sign stand out more so people see the sign; the current sign kind of blends into nature where this will now stand out a lot more to me.

Chairwoman Adams – Does anyone else feel the same. Do you feel this is substantial or not substantial?

Member Raymondo – I agree with Member Pearson.

Member Moore – To me red is red. I don't see it as substantial.

Village of Walden
Zoning Board of Appeals Meeting
November 06, 2014

Member Alleyne – The color seems totally different to me.

Attorney Dickover – The Board can say the variance requested is not substantial but because of the color changes are being considered by the Board in the total context you can say it is substantial or not. You have a lot of things going on. The color change, there is no change in the structure itself, no change in the size of the sign, there is no change in the location of the sign with respect to area setbacks so in context of that you think it's substantial or not.

Chairwoman Adams – Well it's sort of 3 to 2 on substantial.

Member Pearson – Do all State Farm signs have to be this color?

Chairwoman Adams – According to what the applicant put in her application State Farm is changing the logo and that she is required to follow through.

Member Pearson – Yes, but if you go to a McDonalds for example you don't have regular McDonalds in some communities. My question is what happens if the community doesn't allow it, Mr. O'Connor can you answer this?

Brian O'Connor – As far as the colors goes, the color on the sign on the corner is red, black and white. Their color red might be slightly different it's not going to be exactly the same but you're looking at a laser printer and that output is going to be different from the Attorney laser printer, the building department's laser printer, the colors are always different. What you're seeing there in the picture exhibits might not be as substantial as you think it is. As far as other color combinations primarily it's the red, white and black it could be just a black field with white copy they have done that, so yes.

Chairwoman Adams – Does that answer your question Member Pearson?

Member Pearson – Yes, it does.

Chairwoman Adams – Adverse physical or environmental effects; None noted from the Board.

Self-created: If State Farm has changed their corporate logo, I don't see this as self-created by the applicant.

Member Pearson - Brian O'Connor just told us there other options for sign colors, so that's what they chose. I just want it put on the record my thoughts regarding the colors.

Chairwoman Adams – Any questions/comments by the Board? None noted.

**Member Moore, made motion to approve the sign conditional on Architectural Review Board approval of colors and no internally lit signs are permitted
Seconded by Member Alleyne, All Ayes, Motion Carried**

C. DISCUSSION ITEMS:

Building Inspector Stickles – The previous applicant on Pleasant Avenue, I know the answer to the question but would like to review this with the Board and Attorney Dickover. If there were a slight modification to the length of the driveway that was approved does the applicant have to come back to the Zoning Board and go through the entire process again? I believe he got an approval for a 7' X 16' driveway, he had thought he was asking for a driveway that was 16' long and 8' wide to reach to the back portion of his porch. The applicant didn't understand the process and was nervous and he asked for what he thought he wanted.

Chairwoman Adams – Didn't we ask him if that was sufficient?

Village of Walden
Zoning Board of Appeals Meeting
November 06, 2014

Building Inspector Stickles – Yes, I'm just confirming what he needs to do now.

Attorney Dickover – He needs a modification of the approval?

Building Inspector Stickles – Yes.

Member Moore – Does this mean he would have to send out all the mailings again, even though no one showed up the first time?

Building Inspector Stickles – Yes.

Chairwoman Adams – Yes, he needs to come back to the Board. Any questions/comments by the Board? None noted.

Member Pearson – Building Inspector Stickles can we get copies of the new sign laws or any new zoning information we may need.

Building Inspector Stickles – Yes, I will get it to the Board.

D. INFORMATION ITEMS:

E. CORRESPONDENCE:

3. COMMUNICATIONS:

4. EXECUTIVE SESSION:

With no other matters in front of the Zoning Board of Appeals, Member Raymondo made a Motion to adjourn, Seconded by Member Moore with all members voting yes.

MEETING ADJOURNED: 8:45pm

RESPECTFULLY SUBMITTED
November 06, 2014
Nancy LaMancuso
Zoning Board Secretary