

Village of Walden  
Zoning Board of Appeals Meeting  
January 5, 2017

Chairwoman:	Rebecca Pearson	Present
Members:	Faith Moore	Present
	Carolyn Wesenberg	Present
	Gregory Raymondo	Present
	Mary Ellen Matise	Present
Alternate:	Dan Svarczkopf	Absent
Building Inspector:	Dean Stickle	Present
Village Attorney:	Robert Dickover	Present
Secretary:	Tara Bliss	Present

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Chairwoman Pearson - Called the Zoning Board meeting to order at 7:30pm with the Pledge of Allegiance.

**1. APPROVAL OF MINUTES:**

**Member Raymondo made a motion to approve the November 3, 2016 minutes. Seconded by Member Moore. All ayes. Motion carried.**

**Member Raymondo made a motion to approve the December 1, 2016 minutes. Seconded by Member Wesenberg. All ayes. Motion carried.**

**2. BOARD BUSINESS**

**A. PUBLIC HEARINGS:**

**A.1 59 Lafayette Street, Area Variance**

Applicant handed in mailing proof, mailed out 54 notices got back 45 response cards. Cards were counted and verified by the Board.

Gary Fredell, owner of 59 Lafayette Street, explained he wanted to build an 18 by 8 foot covered front porch. If he does that he will be 23 feet from property line which is why he is here for the area variance. He feels it will improve his home and neighborhood.

**Member Wesenberg made a motion to open the Public Hearing for 59 Lafayette Street, Area Variance. Seconded by Member Moore. All Ayes. Motion Carried.**

Chairwoman Pearson asked how far it comes out.

Mr. Fredell replied it comes out 3 feet. It will be a covered reverse gable with railings only not enclosed and the steps will stay where they are currently coming out towards the road. The drawing is to scale.

Chairwoman Pearson explained that the Orange County Planning 239 review came back dated 12/14/16 and has said it is a local determination and that they have no comments.

**Member Wesenberg made a motion to close the Public Hearing for 59 Lafayette Street, Area Variance. Seconded by Member Raymondo. All Ayes. Motion Carried.**

**A.2 160 Old Orange Avenue, Use Variance**

Applicant handed in mailing proof, mailed out 20 notices and got back 12 response cards. Will drop off list on Monday to Dean. Cards were counted and verified by the Board.

Mathias Oni-Eseleh, President of Taconic Innovations, explained that he would like to put up a 3 foot fence on the property for security purposes. The business provides services to children and adults with

Village of Walden  
Zoning Board of Appeals Meeting  
January 5, 2017

autism and medical transportation and they have vehicles on the property. No treatments occur in the building they are just administration offices and they set up transportations out of there. Staff is there for administrative purposes at this time. 55 Coldenham Road is where they were working out of prior to this location.

**Member Wesenberg made a motion to open the Public Hearing for 160 Old Orange Avenue, Use Variance. Seconded by Member Moore. All Ayes. Motion Carried.**

Member Matise asked why he feels he needs a fence.

Mr. Oni-Eseleh replied to secure our assets and the fence gives him a sense of security and he has it at his other locations. It's his way of securing his assets. It would have a 20 foot electronic gate and it would be decorative fencing.

Member Matise asked if trucks are left overnight.

Mr. Oni-Eseleh replied yes.

Member Matise asked if they have had any problems since being there.

Mr. Oni-Eseleh replied no; we are proactive

Chairman Pearson explained that as long as it is used for administrative purposes and not treatment at the building then it should be an area variance application, not a use variance. She asked why they only wanted a 3 foot fence.

Mr. Oni-Eseleh feels it deters the probability of the theft.

Member Matise asked if there are security alarms or motion sensitive lights on the building.

Mr. Oni-Eseleh said that he is getting every possible security for the building. Whatever it legally takes to protect it.

Member Raymondo stated it is not a high crime area.

Mr. Oni-Eseleh replied that it does not have to be in a high crime area to protect your assets.

Building Inspector Stickles explained to the Board that the lighting letter in their packets had to do with the Planning Board which he will address with them. He first went to the Planning Board for a sign approval and he is now here for the fence approval, and then he will go for the parking lot improvements to the Planning Board.

Attorney Dickover explained that a fence is not allowed in the required front side or rear yards. It is permitted in non-required side yards up to 8 feet. Front yard requires 50ft and side is 30ft from side boundary by code. Therefore it is not permitted on this property without a variance. Without a map or survey showing the exact location of the fence you don't know exactly what you are approving.

Mr. Oni-Eseleh replied that Mr. Rende who he purchased the property from has a survey showing measurements.

Attorney Dickover commented that it doesn't give dimensions from side yards. It's drawn in to say it will be 20ft from the building but the building is 19.8ft from the side yard so this is not to scale so it can't be right by what's done on here. He needs a map better than this or the Board needs to figure out what to do. The survey cannot be amended or it would be an illegal situation.

Village of Walden  
Zoning Board of Appeals Meeting  
January 5, 2017

Mr. Oni-Eseleh explained it was done by a certified surveyor he hired.  
Attorney Dickover explained that he would need a surveyor to draw it out and present to the Board.

Chairwoman Pearson explained that the criteria is the important part for the Board to consider. We should change this application from a Use Variance to an Area Variance.

Attorney Dickover explained yes. In the OLI zoning district fences are permitted so it should be treated under standards for area variance.

**Member Raymondo made a motion to change the Use Variance Application for 160 Old Orange Avenue to an Area Variance Application. Seconded by Member Wesenberg. All ayes. Motion carried.**

Mr. Oni-Eseleh asked why they were changing it as it will be more expensive for him to hire a surveyor.

Chairwoman Pearson explained he would have to do that either way. It is benefiting for us to change it for you. She asked if there was a reason not to put the fence closer to the property line. Why is it in so far from the property line?

Mr. Oni-Eseleh replied that's where he wants the fence installed but he will look at that.

Member Moore asked if it will be the same size all the way around.

Mr. Oni-Eseleh responded yes.

Member Moore clarified that the fence is for ease of mind, security, and there will be an access to the property for employees that will have an access point to get into the driveway. No general public will be coming in and out.

Mr. Oni-Eseleh replied correct, it is not a service center.

Member Matisse asked how many vehicles are parked there.

Mr. Oni-Eseleh stated it depends on the day, some days more than others. 5-6 but have room for more.

Member Matisse asked if so far from what he's seen; is there potential for trespass.

Mr. Oni-Eseleh replied that he lives in the Village. It is easy for him to stop by and he hasn't seen anything. He has lived here for a long time and doesn't intend to see anything but wants to have peace of mind.

Attorney Dickover explained that you don't want fences in required yards banned; if not you can have up to 8ft high. If granted you would need to give a minimum variance to accomplish what the applicant is looking to achieve. Fence on sides and rear are not going to allow for parking on the sides or rear of building which is something the Planning Board will look at that, but in granting or not granting your code requires that it be against the building. But in the spirit maybe be as close to the building in the side and rear and in the front farther out to protect. How tight can it be on the sides and the rear and still accomplish his purposes and then bring it out closer to the property line.

Mr. Oni-Eseleh said that is not the intent, he wants to plant flowers around building.

Attorney Dickover continued that he is looking for the footage when the survey is redone to be able to give a minimum along the building. That's what they have to look at minimum amount of variance to give you and still accomplish your intentions. How far do you need?

Village of Walden  
Zoning Board of Appeals Meeting  
January 5, 2017

Mr. Oni-Eseleh replied that he would like to beautify the building and see flowers and plants without space so they also have green around the building. It's key to their operations. There will be no parking in the back or the side. Working with architect to improve the parking lot. Not able to plant around the building. Not going to touch the hill in the back. Back is not as important at the sides and the front of the building.

Attorney Dickover stated that the Board might possibly want to wait for a survey before any determination on our end. You could hold open the hearing for next meeting so they can understand the lot lines better. Building Inspector will be able to help you and review that with you.

Mr. Oni-Eseleh asked if someone could show him in the code where it says this; he didn't see in the code so he will educate himself more on the code. If that is what it is, that is what it is.

Chairwoman Pearson added that we are not saying no.

Mr. Oni-Eseleh feels there are road blocks to getting this done. He read the code but it seems the interpretation is different from his attorney.

Chairwoman Pearson added that we changed the usage to make it easier and legally we need to see the survey to grant that application.

Member Moore added that if we approve then future parking requests would need to be within that fence line. We are not trying to make it difficult.

Member Matisse questioned the fence on the side and rear, will side yard neighbors be able to see this.

Mr. Oni-Eseleh replied it is a little fence, so no.

Member Wesenberg asked if there are other fences in that neighborhood

Member Matisse replied no, but it has a tree line on the left side and a cliff in the back and an empty lot next to it but is for sale. That goes up a little and is tree lined currently.

Mr. Oni-Eseleh added that the property is vacant on the left, right is a commercial building there are no fences on the sides.

Member Matisse replied true, but across the street there is and behind.

**Member Matisse made a motion to adjourn the Public Hearing for 160 Old Orange Avenue, Use Variance until the February 2, 2017 meeting at 7:30pm or as soon thereafter as the matter could be heard. Seconded by Member Moore. All Ayes. Motion Carried.**

**B. FORMAL APPLICATIONS:**

**B.1 59 Lafayette Street, Area Variance**

**Chairwoman Person made a motion to list the 59 Lafayette Street, Area Variance as a Type II action and no further review will be done. Seconded by Member Raymondo. All ayes. Motion carried.**

The Board reviewed aloud the 5 factors associated with an Area Variance:

a. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance?

Chairwoman Person spoke for all by answering no.

b. Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance?

Village of Walden  
Zoning Board of Appeals Meeting  
January 5, 2017

- Chairwoman Person spoke for all by answering no.
- c. Is the requested area variance substantial?  
Chairwoman Person spoke for all by answering no.
- d. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?  
Chairwoman Person spoke for all by answering no.
- e. Was the alleged difficulty self-created?  
Chairwoman Person spoke for all by answering no.

**Member Raymondo, made a motion to approve the 59 Lafayette Street, Use Variance as requested. Seconded by Member Wessenberg.**

<b>Roll call vote:</b>	<b>Chairwoman:</b>	<b>Rebecca Pearson</b>	<b>Yes</b>
	<b>Members:</b>	<b>Carolyn Wesenberg</b>	<b>Yes</b>
		<b>Mary Ellen Matise</b>	<b>Yes</b>
		<b>Greg Raymondo</b>	<b>Yes</b>
		<b>Faith Moore</b>	<b>Yes</b>
	<b>Alternate:</b>	<b>Dan Svarczkopf</b>	<b>Absent</b>

**All Ayes, Motion Carried**

**C. DISCUSSION ITEMS:**

Member Matise feels there is an issue with the way the mailings are done. For a porch it was 54 which is almost \$400. And the use variance was only 24 for a fence. She went to the Post Office and found out that there are 2 other ways to get a list or an electronic confirmation that they received it and is about \$2 cheaper per mailing. Could happen electronically and still be compliant.

Attorney Dickover explained it has always been like that, the State said they have to do it but we can determine how it is done. You could request to the Board and then make change.

Chairwoman Pearson asked if the Board wants to look into that.

Unanimous yes from the Board as they would all like to save people money.

Chairwoman Pearson asked the attorney to look into that. She reminded everyone to get thier trainings in; don't forget.

**D. INFORMATION ITEMS:**

**E. CORRESPONDENCE:**

**3. COMMUNICATIONS:**

**4. EXECUTIVE SESSION:**

**MEETING ADJOURNED:** 8:25 pm

RESPECTFULLY SUBMITTED  
January 5, 2017  
Tara Bliss  
Zoning Board Secretary