

Village of Walden  
Planning Board Meeting  
September 19, 2018

|                     |                 |         |
|---------------------|-----------------|---------|
| Chairman:           | Stan Plato      | Present |
| Members:            | Jay Wilkins     | Present |
|                     | Lisa Dore       | Absent  |
|                     | Jason Trafton   | Present |
|                     | Zac Pearson     | Present |
| Building Inspector: | Dean Stickles   | Present |
| Village Attorney:   | Robert Dickover | Present |
| Village Engineer:   | John Queenan    | Present |
| Secretary:          | Marisa Kraus    | Present |

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Chairman Plato - Called the meeting to order at 7:30pm.

**1. APPROVAL OF MINUTES:**

Member Pearson made a motion to approve the June 20, 2018, August 6, 2018 and August 15, 2018 minutes. Seconded by Member Wilkins. All ayes. Motion carried.

**2. BOARD BUSINESS**

**A. PUBLIC HEARINGS:** None

**B. FORMAL APPLICATIONS:**

**B.1 77 East Main Street, Stewarts Shop's, Site Plan Amendment**

Chad Fowler, Stewarts Shop's, 77 East Main St., appeared before the Zoning Board of Approvals and was granted an Area Variance for the canopy. There was one question from the County, gas bills. They're showing snaps in the catch basins.

Engineer Queenan asked if he has a significant gas bill.

Mr. Fowler replied, yes.

Attorney Dickover said that this project went before the Zoning Board of Appeals on September 6, 2018 for variance for the setback on the canopy, which the board granted. Asked about the sign on the property being internally lit.

Mr. Fowler said that it was internally lit, but changed it to externally to be in compliance.

Attorney Dickover added that there was a 239 referral letter received called for a local determination. The Board needs to decide to waive a Public Hearing on this matter and review the EAF to make a determination.

Chairman Plato stated that the Zoning Board made an EAF.

Attorney Dickover said that they reviewed it and declared themselves as lead agency for this purpose and this board is free to do same. They resolved a negative declaration on it.

Member Wilkins made a motion to waive the Public Hearing. Seconded by Member Pearson. All ayes. Motion carried.

Engineer Queenan reviews parts 1, 2 and 3 of the short form EAF.

Member Trafton made a motion to adopt Negative Declaration. Seconded by Member Wilkins. All ayes. Motion carried.

Member Wilkins made a motion to approve the application. Seconded by Member Pearson. All ayes. Motion carried.

Chairman Plato said that it's almost entirely black topped, asked when is it determined that we need detention or not.

Engineer Queenan said the regulations are grey on that. It's an existing site, the paperwork is there and technically he's not disturbing any areas that aren't already disturbed. At this point, he doesn't really need to provide anything. The Board can determine that there's flooding downstream and it's because of this property, then that would trigger new storm water or detention facilities. The DEC regulations for storm water, he's existing.

Member Pearson added that he is below the threshold for the State.

**B.2 83 East Main Street, Proposed Offices**

Jason Harrison, 83 East Main Street, was here a few weeks ago to get a change of use for a building he's trying to purchase, and presented amended plans to the Board.

Engineer Queenan stated that it's the same map they got before, except the note that says it's in the B4 district. Site plan notes that says the property is vacant and going to be used as an office. No change to hours of operation. But didn't provide the Zoning Table or the parking calculations.

Chairman Plato asked if he should have done any reference to the change of the original.

Engineer Queenan said that there should be a note that this is in reference to sign of approval and that it's a change to office use. Should say amended site plan. Not sure if they have any plans for lighting, dumpster, signs.

Mr. Harrison stated that he just wants to move in and use it as an office and as he moves forward to improve it through the building permit process.

Member Wilkins mentioned the survey shows the Walden Plaza sign on this property.

Mr. Harrison said that there's a steel post, but no sign on it.

Engineer Queenan stated that it's 1200 sq ft building. The parking does need it. It's one space for every 300 square feet. It does have the required amount of parking. In the lot table B4, this lot does not meet the minimum area, plot width or rear yard setback for office use.

Attorney Dickover asked when the was building constructed.

Building Inspector Stickles thinks that it wasn't built when the current zoning was in place, but will have to look it up.

Attorney Dickover said that he would have to look at it. If it was constructed before the zoning went into place, it would a pre-existing non-conforming building and a lot. No change in size of building, just the parking lot. Probably grandfathered for those purposes. We should know the history of construction when the zoning was placed there. Let's find out when it was placed there.

Building Inspector Stickles said that if he had a former site plan he wouldn't be here.

Engineer Queenan said that it meets the requirement, just put a note that there's 300 sq feet per table.

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Attorney Dickover questioned if he should have the existing utility lines shown on the map.

Engineer Queenan stated that he could.

Attorney Dickover added that it's good for the Village to know where they are located. Get that and should have an answer on the conformity of the building.

Engineer Queenan reviews parts 1, 2 and 3 of the short form EAF.

Member Wilkins make a motion to adopt Negative Declaration. Seconded by Member Pearson. All ayes. Motion carried.

Chairman Plato asked if the changes on the plan were minor.

Engineer Queenan replied, yes very minor.

Attorney Dickover added that subject to this non-conforming lot and building. Think we should look into first and need to resolve whether to waive the public hearing.

Member Pearson made a motion to waive the public hearing. Seconded by Member Wilkins. All ayes. Motion carried.

Attorney Dickover stated that there are two things, the map being revised with the engineers comments and a determination by the Planning Board council, that there's no variance required on the account of the non-conforming lot and building.

Member Pearson mentioned that if this had a site plan, he wouldn't have been here.

Attorney Dickover said that we should be able to get this resolved by October 1<sup>st</sup>.

Member Pearson said the plan needs to be revised.

Mr. Harrison said that he's running out of time with these people. They are ready to close.

Attorney Dickover said that we will find out when it was constructed and if there was zoning in place.

Mr. Harrison added that he is not doing anything. The building was already there. Why would he need a variance?

Attorney Dickover said that it needs to be looked into.

Member Pearson said that the bulk table needs to be on the plan. Chances are it was done before, but they have to do background to check on the place. There was no site plan. Nothing to draw from.

**B.3 78 Oak Street, Rear Building, Site Plan Amendment**

John Josephs, and Tim Horton, Property Manager of the Thruway Shopping center, has an amended site plan.

Chairman Plato wanted to confirm that they decided to not have Franoc's a part of this.

Building Inspector Stickles said that's right. Franco's had their own application separately.

Chairman Plato mentioned that they talked about the signs and were going to put signs up and judge the size of them.

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Tim Horton said that it's the same size as Anytime Fitness, which is 3x3.

Chairman Plato said that they also talked about the other signs that are still not addressed.

Member Pearson added the Laundromat, Smokers Choice.

Tim Horton, said that Smokers choice is their corporate logo. He talked with the Laundromat and he's claiming their corporate logo as well.

Chairman Plato questioned if a major corporation to use that sign, but this means anyone that's a 1-2 person corporation can use a corporate sign.

Attorney Dickover said that it's an issue not sure how the Village has handled it in the past with corporate logos.

Member Plato stated that it's only allowed at Hannaford's and True Value.

Building Inspector Stickle added the Sporting Goods. But those signs on that building are supposed to be the same, according to the approval. So they're out of compliance.

Member Trafton questioned that it has nothing to do with the corporate logo, but has everything to do with approval.

Attorney Dickover said that it's both. They're asking for a corporate logo and we have a prior sign approval that they are all supposed to be similar in design and color and are asking to vary that.

Member Pearson stated that it's been up for a year and half.

Chairman Plato said that we've been on this for 3 years. Thinks to not even look at this until he clears that up.

Attorney Dickover stated that's an enforcement issue for the Building Dept. This board really doesn't have the legal authority not to consider an application because of pending violations.

Chairman Plato said that he would tend to look deeper into a proposed change if he had stayed conforming to everything he said he was going to do before.

Attorney Dickover said that's a valid position to take but you cannot not review it.

Chairman Plato questioned if the amended site plan doesn't meet with the original site plan.

Attorney Dickover said that you're not being asked to approve the construction of anything other than what this applicant is bringing in front of you, which is the building in the back. Other structures that are over there that might be out of compliance, you're not being asked to review them at this point. Any other feature shown on this map, are not being approved by your resolution, if you were to approve that.

Chairman Plato asked if someone came in with a site plan, did not build to that site plan and wanted to amend it, we have to review that site plan even though they didn't own up to his last one.

Attorney Dickover replied, yes. It becomes an enforcement question for the Building Dept.  
Tim Horton, said that what's put on this map is what we've been discussing for the last 3 months.  
Proposing to replace the sidewalk with grass, restripe parking lot and parking spaces.

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Tim Horton, said that tonight he's trying to get approval for the sidewalk, landscaping, restriping of parking spaces and taking off the drive thru of the bank and match the plaza.

Member Wilkins asked about not addressing the commercial laundry.

Tim Horton said that it's an existing use.

Building Inspector Stickles said that's part of application to approve the laundromat to expand the basement area for commercial laundry. The bank, the signage and the directional turns going into the plaza.

Engineer Queenan added that the list he has are the existing signs that were a problem. The proposed signs that he wanted to install to get you to the back building, as well as the signage for the building in the back. There were the 3 uses going in the basement; the truck parts, the laundromat and the existing Thruway. Then taking the old bank and making it into a jewelry store and doing some additional parking lot striping there. As well as doing some striping, landscaping with the rear building and addressing the entrance.

Member Wilkins said would have to come back with Franco's.

Building Inspector Stickles stated that Franco's has his own application.

Engineer Queenan asked if he had filled out an EAF that includes everything now. Should probably fill out a new application. Started with 1 user and now we have jewelry, restriping and front entrance traffic flow.

Tim Horton said that he originally came here for the basement building.

Engineer Queenan said yes, small office, bathroom, storage area, approve sidewalk and landscaping. Advised him to fill out an application, list everything and update the EAF

Tim Horton questioned if they can address what's on there tonight.

Engineer Queenan said no, you just handed this to me now. The EAF on file doesn't come close. Try to get those existing signs remedied, as well.

**B.4 Overlook at Kidd Farm, Preliminary Approval Extension**

Gerry Jacobowitz, we think we have someone who's a developer that is able to do this job. Started doing due diligence. In the course of that, status of approvals there's a preliminary that was extended until September 28, 2018. They are not going to be able to put things together by then and we need an extension. In anticipation the due diligence is ok, there's things we need to get from you. We have a conditional preliminary approval. It's reduced to a lengthy resolution and laid with what we had to do to come in and get final. Think we're almost there. Few things your final approval will be conditioned upon, putting up the escrow, bonds, filing with attorney general. Do these things and will satisfy the conditions. We need to work up that resolution for which the attorney has done in the past. We'd like you to authorize him to prepare a draft of such a resolution. We need to get the bond estimates, take offs, which raised question about giving the engineer the authority to review the bond estimates that Engineering Properties have done. He has to see the quantities and the calculations. His recommendation is going to come to you. Jay and Ross will come up with what is going to be satisfactory.

Chairman Plato said that we looked at different phasing. Any idea which way it's going to go?

Gerry said that as of yesterday they are going to do section 1 and 2, located off of NYS Route 208 and Coldenham Road. Going to confirmed that and move forward with sections 1 and 2 cost estimates. Thinks it has to be referred to OC Dept. of Planning again. Their approval has to be based on a complete

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application. The preliminary wasn't necessarily complete. We'd like you to authorize a submission to the OC Planning Dept. under 239 for their review for final approval purposes. Development contract, had 2 sets of go arounds. 1<sup>st</sup> solved everything. 2<sup>nd</sup> was because he missed something in the 1<sup>st</sup> go around and resolved that. The development agreement is ready to be signed by the Village and the applicant. Would like to come back to the October meeting to address the final resolution of approval.

Member Wilkins asked if that would give him enough time.

Gerry said that he doesn't mean to put pressure, but it's a goal. Requires our cooperation and their time table and will give it a try.

Member Wilkins said that he's wondering if November would be more comfortable.

Gerry stated that if they're not ready for October, I will be back for the November work session. If there's a problem, they'll speak up and we'll address it. The sooner we get to that, the sooner the developer's going to satisfy the due diligence requirement. Don't have a deal until that's done. Only thing you need to do tonight is authorize Attorney Dickover to draft a resolution and for the Engineer to review the plans and grant the extension to March 31, 2019.

Attorney Dickover said that there's a preliminary conditional approval for the subdivision. There's a long list of conditions.

Gerry said that he has to put a package together for the buyers. His intentions are to get all that document that we satisfy all the conditions in the preliminary resolution. Some have come to Dean's file as they come in, but will put package together. Think we met all the conditions. This developer is going to have his own plan and elevations and that's going to be a condition that he's going to have to satisfy.

Engineer Queenan said that whatever package you put together, give it to Attorney Dickover.

Attorney Dickover stated that the Village Board has amended the affordable housing regulation for the Village, they downsized from 20% to 10%. Have you adopted that revision in your plans? If you did then it needs to come back to this board and your plans need to identify the location of those units.

Gerry said that the plan identifies the location of the 20%. There was no 2 together and some in every building.

Attorney Dickover added that there was a yard frontage requirement that you were given. Can make the package smaller for the affordable units. Now that you're not affordable, are you changing the footprint of the parcels?

Gerry said no, it will remain same. That way no one will know who's affordable. The 10% will be the same size as other 10%. It gives us flexibility because we're showing 20%.

Attorney Dickover asked if he was leaving 20% as affordable.

Gerry replied; no. We're leaving 20% of the units at the size of the affordable, but only have to have 10% occupied under the affordable housing law. Those will all be designated when they're sold.

Attorney Dickover said that there is 10 more on there than you need and presumably 10 more that you're going to build.

Gerry said that they're still going to be the same size, but 10% will be affordable and 10% will be market and will be the same units that are shown on the plan.

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Attorney Dickover added that your map is going to have 20% affordable units when you're going to have 10%.

Gerry said that they're going to have to reduce it pro-rated. Rule is, you want it mixed. If a building has 2 and they're only going to end up with one, we can't take them both out of there and end up with none.

Attorney Dickover said to solve the problem and amend your plan to show 10% of the units as affordable.

Gerry stated that they're not going to change the footprint of it.

Engineer Queenan said that your plan is going to show 20% as affordable. It's going to have 20 locations. 10 will be affordable and 10 will not and how do we determine the final locations of the 10?

Gerry questioned why you need that.

Attorney Dickover said that the Village requires it.

Gerry said that we show more than 10 to satisfy the code.

Chairman Plato added that you have to show which ones are designated as affordable.

Engineer Queenan stated that's what you have now, but at 20.

Gerry said that there's no flexibility unless we come back to the board.

Chairman Plato said that they were not going to decide it now.

Gerry said that he doesn't see what change needs to be made to accomplish it that we can't already do by administrative matter. CO's have to be issued before they're closed. The CO is going to be granted or not based on whether we comply with the plan. If we come in with a building and all the units are market, no affordable, he's not going to issue a CO.

Attorney Dickover said that the other issue is phasing, are they supposed to be evenly spread out. A certain number of affordable units are going to have to go into 1 and 2. Need to identify them on your drawing so that the Village knows that you're in compliance.

Gerry asked if it can say designate 2 and in either of these.

Attorney Dickover replied; maybe the Planning Board will have to review the statute again.

Member Wilkins made a motion to grant extension until March 31, 2019. Seconded by Member Pearson. All ayes. Motion carried.

**C. DISCUSSION ITEMS:**

**30 Sherman Ave**

Jeff Sohns is looking to put in their contract subject to. There's 2 buildings on the Cloyd Howard property, a concrete block garage, 35 x 35 and a 2 and half story commercial building. Offices on first floor, nothing but attic space above them. Wants to buy the property and use the garage for storage of appliances and right now they are putting them in the back of their store and has to go up a freight elevator. It's time consuming. A few years back putting away 25-30 pieces and now we're putting away 75-100 pieces. Need more convenient space. At some point we want to extend that building or build another.

Member Wilkins asked about where he's storing them now.

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Mr. Sohns said that they are storing their trucks at Dave Jansen's house. The other problem is the dumpsters. Have to keep them off site. Behind concrete platform there's a concrete pad that would be nice to store the dumpsters and would fence in the dumpsters. On the platform, want to screen that in, it has an open roof right now. Want to appliances that we take out of people's houses and store them there until we take them to the salvage yard. Want to store the trucks there when they're not being used. Right now there's a pumping station. Was used to pump propane and they will take that away. There's another propane tank there to supply heat in both buildings. Eventually, would like to rent the office building. We don't plan to change anything there right now until we build a bigger building to store or an addition on that building. Is there anything here we can't do? Would like to sign the contract and close as quickly as possible.

Building Inspector Stickle said that looking through the zoning code, this proposed use is allowed within the MX zone.

Member Wilkins said that it's only been used for parking. It's only been used as sales. Doesn't see a problem.

Chariman Plato stated that he doesn't see a problem.

Building Inspector Stickle said he looked through it and didn't have the sections that John's looking for. Picked out sections that are allowable for what Mr. Sohns told him he was going to do. Think it's an allowed use for what he want to do. Only had what Mr. Sohns was telling him.

Engineer Queenan said that the offices, permitted use, agree with Building Inspector Stickle. Falls in one of those allowed uses.

Building Inspector Stickle said that this is another application that he cannot find a site plan approval for. Mr. Sohns knows that he has to come to the board to get approval for. Looking to see if the board see anything there to prohibit him from doing what he's looking to do. It was Cloyd Howard and they parked their trucks there, they had tanks there. The only thing that they weren't allowed was in 81 or 82 they wanted to put a 10,000 gallon storage tank there for propane. The Village didn't allow. Mostly for fire protection.

Member Pearson said its same thing as 83.

Member Wilkins asked how long until the closing.

Mr. Sohns said he would like to close by the end of October.

Member Trafton asked if there's any set back issues.

Attorney Dickover asked how long these buildings have been there.

Mr. Sohns said since 1950.

Member Wilkins made a motion to adjourn. Seconded by Member Pearson. All ayes. Motion carried.

**D. INFORMATION ITEMS:** None

**E. CORRESPONDENCE:** None

**3. COMMUNICATIONS:** None



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4. **EXECUTIVE SESSION:** None

5. **MEETING ADJOURNED** at 8:54 pm

RESPECTFULLY SUBMITTED  
Marisa Kraus, Deputy Clerk  
Planning Board Secretary