

Village of Walden
Zoning Board of Appeals Meeting
January 3, 2019

Chairwoman:	Rebecca Pearson	Present
Members:	Christine Scieurca	Present
	Gregory Raymondo	Present
	Mary Ellen Matise	Present
	Jessica Metzger	Present
Alternate Members:	Michael Ciardullo	Absent
Building Inspector:	Dean Stickles	Present
Village Attorney:	Robert Dickover	Present
Secretary:	Marisa Kraus	Present

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

1. APPROVAL OF MINUTES:

Tabled

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1 56 Valley Avenue, 7:30PM, Continuation

Chairwoman Pearson stated that we received papers with the agreement for the driveway.

Attorney Dickover said that this is referred to as a cross easement, benefits both parties. It's drawn out on the survey attached to the agreement. Frontage on this parcel is along the lines of 10 feet across front and about 13 feet across the rear. 19 feet long on one side and 24 feet on other. Problem that he sees is that it doesn't extend to the rear of the property or the rear of the building. It goes about half way down the applicant's property, stops and goes back to street. There's a triangular piece in between these properties that doesn't go to the rear. So in the absence of the agreement with the other neighbor, there is no legal right to use the neighbor's property for access purposes. Right of way of easement is for travel by cars, but there's a prohibition against parking cars upon it.

Member Matise asked when this easement was drawn up.

Chairwoman Pearson answered; 2007 with the other owners.

Member Matise wanted to confirm that there was no easement before that.

Attorney Dickover said that he wouldn't know without looking at title search.

Member Matise added that the house at 56 Valley Ave was probably extended prior to 2007. You can see from the roofline where the back end was added on. At one point maybe it would have gone to the end of the house, but not in 2007.

Chairwoman Pearson questioned if the recommendation if they could have a new agreement with the owner next door.

Attorney Dickover said that they need this parking, that's their application. They gotta demonstrate the ability to use the property in a legal fashion.

Member Matise added that the neighbor put gravel there and the gravel is on their property.

Attorney Dickover said that he has the right to maintain. Perhaps encroach. That's a private issue and doesn't concern this board.

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Member Matise said that for them to gain access to the property in the rear, they should go to the neighbor next door and drawn up a new agreement.

Attorney Dickover added to extend the easement, it would benefit both properties.

Chairwoman Pearson asked if this board was in an agreement, could possibly put a time frame on it and approve it with a condition that within 6 months we see that and if not then it's back to square one.

Attorney Donovan said that they could conditionally approve the request for the variance and make the condition that they obtain the satisfactory cross easement from the neighbor, showing acceptable access to the Building Inspector. They're gonna have to have enough room to get around the corner of the house otherwise the tenants are gonna crash into the corner of the house. The easement is gonna have to be extended enough so that everyone can make the turn and get around the house.

Chairwoman Pearson mentioned that the public hearing is still open.

Member Metzger asked if it was possible for someone to do a survey and not file it with the county 6 years later. On the left hand side of the sworn statement, it looks like the survey was completed in Oct 2001 and not filed with the county until October 2007.

Member Scieurca said that most of the time surveys are not filed with the county unless they're used for descriptive purposes.

Member Metzger believes that the survey itself is 6yrs older than being filed with the county.

Attorney Dickover stated that the survey itself is dated Oct 23, 2007. Where's the certification?

Member Metzger said all the way to the left. You can file the survey after the field survey has been done.

Attorney Dickover said that he can't read what you're looking at, something is in the bottom right hand corner, survey is dated Oct 23, 2007.

Member Metzger added that's correct, but all the way to the left.

Attorney Dickover said that even if it say 01, 02 or whatever it says, this is a field survey, when he was in the field that day. It could have been 50 years ago, as long as he dates it on the right hand side, he's bringing it up to date.

Chairwoman Pearson said that the paperwork in front of us doesn't give you enough easement to get past your house to get into your backyard. We are recommending is talk to your neighbor and get a new agreement that we can have with us here.

Mr. Nguyen believes 100% that he agrees. His driveway is blocked. So he does agree. Will talk to the guy.

Member Scieurca would like to put the matter to rest and make a motion to conditionally approve it for 6 months for them to get the agreement.

Chairwoman Pearson questioned if they would be coming back to the board or go to Dean.

Attorney Dickover said that it would come to me to review the document to make sure it's satisfactory and then go to Dean to make sure it's adequate to get in and out and clear of houses. If you're going to entertain a motion like that, you might want to take a look at the number of spaces, they're asking for 2

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and may be able to get 3 in there, ask the applicant if that's feasible. If you're gonna approve of a variance, it would be approval on condition upon the applicant presenting a mutual easement to access the rear of their property with adequate clearance to get by the home. Should put a time frame on them to obtain that. If it is not presented, approved and filed within that time frame, then your approval would then be deemed expired or terminated.

Member Matise said that she thinks 3 months. If they proceed and don't get the agreement, then they're proceeding with this idea that they're going to have however many parking spaces we allow, if we give the variance, making a 2 family and what if they get stopped in their tracks again?

Building Inspector Stickles said that they can't make it a 2 family until they get what you need.

Member Matise added that's right so I wouldn't drag out the whole thing of an easement agreement to 6 months, I would say 3 months.

Chairwoman Pearson stated that she knows there's 2 parking spaces here and could put another here possibly and maybe fit another here. Get 3 in the back here so there's less on the road frontage.

Mr. Nguyen said that he talked to Brian and they shared that money to get between both of their properties. Also he wants on his side of the backyard is all the paving.

Chairwoman Pearson said that if you angle all the spaces in, you will be able to get 3 spaces in there.

Member Scieurca asked what the standard size is.

Building Inspector Stickles answered; 9x18.

Chairwoman Pearson questioned if they were working on house.

Mr. Nguyen said that they're just waiting for the approval. It's been empty for a year, didn't touch anything. Talked to Brian and we will share in blacktopping.

Member Scieurca question if they're going to blacktop their entire lot.

Mr. Nguyen said yes. Brian wants to do it because it's too tight.

Chairwoman Pearson added that if you look at people that live in the city. My driveway, we have 2 cars in my driveway and I don't have it wide enough. I have to pull one out to pull the next one out. If we say to put 3 back there, the people who live there will have to figure it out.

Member Scieurca stated that she understands, but he is blacktopping the whole thing, there's probably going to be 4 or 5 cars back there.

Member Matise commented that it's really tiny back there.

Chairwoman Pearson added that they will have to pull out and pull back in.

Member Matise said that's one thing if it's just you in your house.

Chairwoman Pearson stated that's not her problem.

Member Matise said that it's creating a problem. There's plenty of room on the street. When it snows they have to get off the street anyway so they're gonna have to figure that out themselves.

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Member Metzger thinks that there's gonna be 2 spots.

Member Matisse said a minimum of 2, a 3rd if they can figure a way.

Chairwoman Pearson said that it sounds like people are kind of in agreement of making it happen.

Member Scieurca said that looking at the pictures and the sizes the spaces would have to be, I don't see how they could get 3 cars back there.

Building Inspector Stickles doesn't think 3 will fit.

Chairwoman Pearson questioned that we should really be having 4 spaces.

Building Inspector Stickles said that the use requires 4 spaces. They can't provide the 4 so that's why they're here, to reduce that number to whatever number they can provide. They should be showing you what they can and cannot provide, not you telling them what they should be doing.

Attorney Dickover said that one of your requirements is to grant the minimum variance necessary to provide the relief that's being requested. If 3 spaces can be provided, that would be the minimum variance. If they have room for 3 spaces back there, they should demonstrate that on the map. If they can't do it, demonstrate that they can't do it. Think the issue may be, how do you back a car out of the space? Pretty clear that you can't get 4 back there, maybe get 3, if reduced in size.

Chairwoman Pearson added that we wouldn't know that until they brought us something.

Attorney Dickover said that Mr. Weeden can draw that on the survey to show that it can be accommodated. The way it's drawn right now, on the right hand side of the property boundary, showing a space that's off the property line by a couple feet. Might be able to slide that to the right and put that right to the property line. Could get a 3rd one in alongside it. Provide it on the map and grant them a minimum variance.

Member Scieurca asked that would mean not only granting a variance for reduced parking spaces, but granting a variance for reduced size of space.

Attorney Dickover said probably be something like 8x18 or 8x16.

Building Inspector added that 9x18 is minimum. 9x16 could fit, but would be tight. 3 probably could fit, but they would have to show you that they could fit them. You got the visual of the map shows the fence, so if the fence is gone, it should be taken off the map.

Member Matisse said that their line with this building that's on Niko's property. When Brian uses the driveway, he's using the whole driveway here, but veering out to the right.

Chairwoman Pearson said that's still his property.

Member Matisse said yes, but when you come out you have to swing out.

Building Inspector commented; don't you think that before you make a determination that everything that you need to see is on that map? Easements, parking spaces, fenced removed, anything that's there, if it's gonna be paved, how big the spaces are gonna be, all of that. Because once you approve it, it's left to me.

Chairwoman Pearson stated that that was going to be her motion and wants to see all of that. I would continue the public hearing. Wouldn't be a motion, would be saying to the owner, I feel I would like to see

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3 spaces, if it can fit. Putting it on the street is not fair to the people who live in the neighborhood. See how many we can fit back there. Also, getting an up to date agreement with your neighbor that allows that length of driveway. Have Mr. Weeden redo the map to see if we can get 3 spaces back there.

Member Metzger thinks that the map needs to be accurate.

Chairwoman Pearson added accurate map and updated easement with neighbor.

Member Matisse mentioned it has to include all of your property, not just the beginning of it.

Member Metzger asked that if the min requirement space-wise is 9x18, if they come back with 3 or 4 and they are smaller. What does that do for us as a board? Are we also changing the variance for that?

Attorney Dickover said that you would just add that to the variance.

Chairwoman Pearson made a motion to continue the hearing and come back next meeting. Seconded by Member Matisse. All ayes. Motion carried.

A.2 25 Valley Ave 7:30PM, Continuation

Re Heagle said that it would appear that the circumstances have changed and perhaps you can act on my original application for an area variance. I believe at one of the prior meetings I met the criteria for the area variance and would hope you could close the public hearing and grant me an area variance as requested.

Chairwoman Pearson said the area variance is the extension of your home to the back. 17x10 is your addition, along with a 13x13 2 story exterior covered deck.

Mr. Heagle mentioned that there is also a 2 foot extension in the front.

Chairwoman Pearson stated there are 2 different area variances.

Attorney Dickover said this application came in and there was some confusion, but that has been resolved. This time you can treat this application as one for an area variance. An area variance for a 1 or 2 family house is a type 2 action under the SEQRA provisions. No further environmental review is required. As an area variance, the board is required to hear evidence in testimony with respect to the 5 factors, deliberate and make a decision on each of them.

B. FORMAL APPLICATIONS:

B.1 25 Valley Avenue, 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?

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?

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Chairwoman Pearson spoke for all by answering that we did find that because of the lot that it was built, he did buy it. I don't feel that it will be detrimental.

Member Metzger said that that's the hardest one, being self-created because you know what you're buying.

Building Inspector Stickles questioned as per the plan. What are you reducing? Setbacks? Per applicant.

Chairwoman Pearson said yes, as per the plan.

Member Matise made a motion to approve the 54 Valley Avenue, Area Variance as requested. Seconded by Member Scieurca.

Roll call vote:	Chairwoman:	Rebecca Pearson	Yes
	Members:	Christine Scieurca	Yes
		Gregory Raymondo	Absent
		Mary Ellen Matise	Yes
		Jessica Metzger	Yes
	Alternate:	Michael Ciardullo	Absent

All Ayes. Motion Carried

C. DISCUSSION ITEMS:

D. INFORMATION ITEMS:

E. CORRESPONDENCE: None

3. COMMUNICATIONS: None

4. EXECUTIVE SESSION: None

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

RESPECTFULLY SUBMITTED
Marisa Kraus, Zoning Board Secretary
8:09pm