

Village of Walden
Zoning Board of Appeals Meeting
December 6, 2018

Chairwoman:	Rebecca Pearson	Present
Members:	Christine Scieurca	Present
	Gregory Raymondo	Present
	Mary Ellen Matise	Present
	Jessica Metzger	Absent
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:

Member Scieurca made a motion to approve the September 6, 2018 minutes. Seconded by Member Raymondo. All ayes. Motion carried.

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1 54 Valley Avenue

Chairwoman Pearson asked for mailings. 60 mailed out. 46 green cards came back. 2 non-deliverable.

Thien Nguyen representing Hoang & Nguyen Bros, LLC, stated that they want to get approved for 2 parking lot because they don't have enough room for 4 parking spaces. Get approved for the 2 parking for 2 family.

Chairwoman Pearson questioned that they need 4 spaces, 2 per apartment. Talk to me about the driveway.

Mr. Nguyen said that he shares the driveway with Brian's house.

Chairwoman Pearson asked if he knew it was a shared driveway when he bought the house.

Mr. Nguyen replied; yes.

Chairwoman Pearson asked if there's an easement. Is there a part on the deed?

Mr. Nguyen replied; yes.

Chairwoman Pearson asked if there's a fence there or a fence line.

Mr. Nguyen said that they cleared it up already.

Chairwoman Pearson questioned that there's no fence between anyone houses.

App 2 replied; no.

Chairwoman Pearson asked if anyone parks in driveway or have a problem getting to the back.

App 2 said no.

Member Matise added that they park at the top.

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Mr. Nguyen said that they could do lot here, but too tight. Have the survey. Can't back up easily.

Member Matisse made a motion to open public hearing for 54 Valley Avenue. Seconded by Member Scieurca. All ayes. Motion carried.

Brenda Adams, 31 Valley Avenue, said that she's trying to figure out because you can't tell in the back. The garage that's in the backyard, believe that goes with 12 Woodruff. There is also a gate at the end of the driveway that looks like it goes to a house further up on Ulster, that might be a right of way for them too. Where the line comes from their property to the property on 12 Woodruff, is there room for 4 cars?

Member Matisse said not much.

Chairwoman Pearson disagrees. If the cars parked a certain way, you could have 4 cars.

Member Matisse added that they would have to pull in and turn. Would have to measure the length of 2 small cars.

Ms. Adams said that she's asking them if there's enough space because there's a serious parking problem.

Chairwoman Pearson said that if she's looking at the picture and there's 4 spaces there.

Member Matisse added that one line cuts at an angle and 3 might fit.

Mr. Nguyen said that they have the fence line and the neighbor did their fence over my property. Talked with the neighbor and took it down for the parking.

Member Matisse asked if that was the neighbor on Woodruff.

Mr. Nguyen answered; yes.

Chairwoman Pearson said it looks like you cut part of the tree down. The neighbor's house goes to that tree or before?

Mr. Nguyen said that when he did the fence, he did something with the property line, it's between his property and my property line.

Chairwoman Pearson confirmed that the tree is right on the property line.

Re Heagle, 25 Valley Ave, said that he is familiar with the property and the neighborhood. Very sensitive to it because parking is a genuine issue. One of the solutions that some municipalities do is to allow a property owner to lease parking spaces offsite to offset the requirement. Which would satisfy the off street parking when it snows. It would definitely lighten up the on street parking to some degree. There are a lot of lots around and someone may be willing to rent spots.

Chairwoman Pearson stated that the village doesn't lease that.

Mr. Heagle said that there are other private property owners that could lease a space.

Member Scieurca asked how many bedrooms in each unit.

Mr. Nguyen said there are 3 bedrooms and 1.5 bath.

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Chairwoman Pearson asked if both apartments were done.

Mr. Nguyen said not yet. Last year we stopped working on it.

Member Raymondo mentioned that the village does allow residents to park in the village lots during snowstorm. There are several people on Capron St that do that.

Chairwoman Pearson added that there are many on Walnut St that do that as well.

Member Raymondo said that when this place was built, they had no cars. Village changed the law, they should have considered parking.

Chairwoman Pearson said they did consider parking. And if you didn't have parking, you weren't gonna get the amount of apartments that were considered. They wanted to make sure that they had enough parking for the people that were gonna be renting homes.

Member Raymondo added that now they allow to keep it as a 2 family.

Chairwoman Pearson thinks that if they change how they park in the backyard, they can at least get 3 in there.

Member Matise said that same 3 doesn't address the issue. If they can do 2 comfortably, it's the same issue. Saying 3 doesn't make a difference because you're not satisfying the 4. So, if you're making an exception and saying 3, then why not just say 2. The snow law applies to everyone. When it snows, whoever lives in this dwelling, is gonna have to figure out where they're gonna park. Whether they make an agreement with Brian Maher next door, Brian has 2 cars, if this becomes owned or rented and the family has 4 cars, they can all agree to either park in the back, Brian can park up in his or some people can park in the driveway and then there's less snow to shovel. Are you planning to live in the house?

Mr. Nguyen said that he's going to sell it.

Member Matise said that you might sell it to someone that lives in one side and then rents the other. Maybe there are people who rent out one of their driveways.

Chairwoman Pearson stated that that's not solving the problem.

Member Matise added that's not our problem to solve. That's not our issue. The law says 4, but if you want to grant them a variance for 2 then that's what you can do.

Member Scieurca doesn't think that making it 3 or 2, we still have to grant a variance. Don't think 4 could fit and would wind up encroaching onto a neighbor's property and create a big issue.

Member Matise added that there were never any easements when these houses were built.

Member Scieurca stated that there is a shared driveway of record.

Member Matise said that there was no driveway originally. The driveway is a result of post WWII, when people had cars. It's shared because of the survey. It's not in their deed.

Attorney Dickover added that the applicant's just testified that's in the deed.

Member Matise said that she has their deed.

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Attorney Dickover stated to examine the deed and make it part of your record. Ask the applicant to examine it, certify it and confirm that it's their deed.

Member Matisse said that she was looking at deed and not the survey. Then was told to look at the survey.

Member Scieurca stated that there is no mention on the survey.

Chairwoman Pearson asked if you have to show a shared driveway on the deed.

Attorney Dickover said that it can be shown in a number of places.

App 2 said that we have 70% and Brian has 30% of the land. We own the driveway.

Attorney Dickover added that there's only 6.1 feet between the house and the property line so the driveway is not wide enough to accommodate a car. The absence of reported easement on Mr. Maher's property or a license, a shared driveway of record.

Member Matisse questioned that the 2 parties have to draw one up.

Attorney Dickover said that they're probably using each other property without permission. Brian's driveway is an encroachment.

Ms. Adams mentioned that there's 6 houses across the street from me and they only have an alley to go between them and they have the common driveway in the back. It was built before there were cars. Was a duplex for as long as I can remember. Don't know if it started out as single family in 1900, but it's been a 2 family. Probably that started out as an alleyway to get to the houses on Ulster and to Brian Maher's house and to their property.

Member Matisse said that Brian's house was built in 1906. It was built after this house.

Ms. Adams added that the only people who are lucky are the ones that have more than 1 lot or the side that goes to the river.

Attorney Dickover said that you need to consider whether or not cars can get through the space provided and do they have legal access to use part of Brian's property. Until you have that, I think you're kinda floating around. If the survey is accurate, it's showing Brian's house 15 feet off the property line. Let's assume the passageway is 10 feet wide between the 2 houses, that means 6 feet belongs to the applicant and 4 feet belongs to Brian and they would be using Brian's 4 feet.

Chairwoman Pearson confirmed that they have to have the legal right to do that.

Attorney Dickover doesn't think you can grant a variance if they don't have a legal right to use the property. If Brian says no and there's a lawsuit and Brian wins, they have a variance without access.

Chairwoman Pearson read the deed into the minutes.

Member Scieurca stated that that's their right to access the public road.

Attorney Dickover asked if there was a title search? There may be a recorded reference to a driveway agreement with Mr. Maher on record, not on your deed.

Chairwoman Pearson added to have their attorney check it out.

Mr. Nguyen said that Brian parks in back also.

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Member Matise said that they can say the same to him. The two of you need to draw up a written agreement.

Member Scieurca questioned if they would be better off with a license agreement or straight easement.

Attorney Dickover said that a license expires. So does your variance.

Member Matise said that they should get together with an attorney and to contact Brian Maher and draw up an agreement that you can both use the driveway.

Chairwoman Pearson asked if they have the title search with them, because it would be on title search

Mr. Nguyen said that they don't have it.

Member Matise asked if they finished 1 unit.

Mr. Nguyen answered; no.

Member Matise questioned if they have the right to finish 1 unit until we solve the parking. If we give them the variance then they can finish both?

Building Inspector Stickles replied; yes.

Chairwoman Pearson added that we need some type of proof that there is an agreement to use the neighbor's driveway. Or draw up something up between the 2 parties that would benefit you for when you do sell your home.

App 2 said that they will talk to Brian.

Chairwoman Pearson said that you may already have something on your title search. Call an attorney and ask him about the driveway and if there's an easement. If that's not there, then you would have to draw something up with Brian.

Attorney Dickover asked about the date on the deed.

Member Scieurca said Sept 6, 2017.

Attorney Dickover then it's not in the title report. The survey was done a month later.

Member Matise stated that they need to get a hold of their lawyer and draw up an agreement.

Attorney Dickover told them to take this survey to their attorney. You didn't have the survey for closing That's why we get surveys before not after we buy a property.

Member Scieurca asked if it is possible the survey didn't reference it.

Chairwoman Pearson said that the surveyor may not have referenced it on the survey and there may be one. You may be able to talk to them as well. Talk to attorney and the surveyor.

Member Matise made a motion to keep the public hearing open for 54 Valley Ave, Area Variance, until January 3, 2019 or so thereafter. Seconded by Member Scieurca. All ayes. Motion carried.

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Re Heagle asked Attorney Dickover, if his application can be voted on tonight, given that the law has change by the Village Board.

Attorney Dickover said that you don't need any relief from this board.

Mr. Heagle stated that he still needs an area variance for my side yard. It's what it's reduced to. I've met all of their requirements and the only person that is affected by it has showed up in favor of it. Would like to build it in spring.

Chairwoman Pearson said that she wasn't prepared for that. We will see you next meeting and bring your papers back.

Member Scieurca added that since law changed, does he have to do what 54 Valley Ave did? Re-mail?

Member Matise said that they had to re-mail because there was a different question.

Attorney Dickover added that it was a part of the original application.

C. DISCUSSION ITEMS:

Chairwoman Pearson reminded members to do their training. There was a discussion at the Village Board meeting the other night about mailings. The board is discussing mailing, how to change it. They're simplifying it enough so that there's 2 comments made that the village would do the mailings or that they would just mail them and have a certified affidavit that that's what was mailed without any return receipts. How much more it would cost the village for time spent.

Building Inspector Stickles commented that he understands the aspect of the cost of mailings to do a variance or site plan. However, the village does not make you come to the board to do things. You come here because you want to change or modify something. I don't understand why it's a hardship if you want to do it. Mr. Heagle is probably going to put \$40k into that addition and \$300 is a lot for him?

Member Matise said yes.

Building Inspector Stickles said he doesn't agree.

Chairwoman Pearson added to come to a board meeting.

Building Inspector Stickles thinks that they should simplify things, but doesn't think the village should do the mailings.

Member Matise said that Dave Donovan brought up the idea of municipality doing it. He said many other municipalities do it. They come in and pay the fee that's involved and the village draws up the list.

Building Inspector Stickles stated that we don't lists out.

Member Matise thinks that we should generate the list.

Building Inspector Stickles said no. Go to the town.

Chairwoman Pearson added that we don't even have an assessor here. Let the assessor's office do it.

Attorney Dickover stated that they get it from the town.

Chairwoman Pearson mentioned it's \$6.70 right now.

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Attorney Dickover stated that the application fee will be increased.

Member Scieurca agrees with Dean. If someone wants to put on an \$80k addition to their house and they don't have a couple hundred bucks to spend on mailing or they gripe about it. Member Matise thinks that it's excessive.

Member Raymondo questioned if the village doesn't do it on time.

Member Matise said that they have to because it would be built into the law.

Attorney Dickover added what if the village gets it wrong?

Member Matise said that's their responsibility. Other possibility is they can just do a first class mail, bring in the list to do a sworn affidavit that they mailed it to all those people and that satisfies the state requirement.

Attorney Dickover asked if it's satisfies them.

Member Matise said yes.

Building Inspector Stickles commented that it satisfies her.

Attorney Dickover questioned if they don't think an applicant is capable of giving a false statement.

Member Matise said sure. But if they give you the list and a receipt from the post office.

Member Scieurca added that she's not opposed to saying the return receipt you don't need. Certified, yes. At least that gets tracked.

Chairwoman Pearson mentioned that Brenda said that she got a certified mailing that part of it was ripped off and never even signed it.

Attorney Dickover thinks that all your code requires is return receipt of mailing, the white part. Don't need the green cards.

Chairwoman Pearson asked if that was all included in the same price.

Building Inspector Stickles said no. It's different.

Member Scieurca added that the green card is an extra \$2.10 or \$2.25.

Attorney Dickover doesn't think that's required in your code. Just proof of mailing. When you buy it, they give a receipt. The affidavit of mailing would be the post office would say you gave them an envelope addressed to so-and-so and they posted it.

Member Matise commented that we're not the people that can vote on it and the Village Board can vote on it and guess what, the Village Board can do the research now because postal rates went up.

D. INFORMATION ITEMS: None

E. CORRESPONDENCE: None

3. COMMUNICATIONS: None

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4. **EXECUTIVE SESSION:** None

MEETING ADJOURNED:

Member Scieurca made a motion to adjourn. Seconded by Member Raymondo. All ayes. Motion carried.

8:18pm

RESPECTFULLY SUBMITTED

Marisa Kraus, Zoning Board Secretary