

Village of Walden
Planning Board Special Meeting
August 5, 2019

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

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

1. APPROVAL OF MINUTES:
None

2. BOARD BUSINESS

A. PUBLIC HEARINGS: None

B. FORMAL APPLICATIONS:

B.1 Edmunds Lane, Proposed Zone Changes

Chairman Plato: In the general notes, #6, says proposed a number of lots, says 8.

Jerry Jacobowitz: That was previous. That was when that was going to be the multiple and these 7. That's a mistake.

Chairman Plato: Okay.

Member Pearson: I have a question of the viability of the lots, 17, 18, 19. They've got that Central Hudson easement across them, what's in that easement? Can you build in there?

Jerry Jacobowitz: There are a couple other things I'd like to point out to you. This got done very fast. It was a conceptual idea. Upon looking at it more carefully, your point is exactly that I want everything moved this way. So that these lots are deeper and this is no part of them. Which means we'll lose some lots over here.

Chairman Plato: So, that will leave just a green space under the lines.

Jerry Jacobowitz: Yes. Except it could be something else. This is the Buddhist property line. This adjoins them. They need parking. So this piece here subject to another comment that I'll make, could become part of their property and they could use this for parking. The easement allows parking under it. This could be an area for that purpose. The question is, how do you get out of it? All of the cars would have to go this way, but that's a factor that we need to look at it as a planning consideration. This area here, at the last meeting, the Chairman mentioned that it was kind of a tight site and there should be more space. This will be part of this site and depending on how this lays out, the peace to the Buddhists may come over a little further depending on how this lays out differently. But the purpose of this was to make a commitment that was going to be more space for this project. If these all come this way, then this all gets pushed back. The rule will end up being over here some place. This cul-de-sac will be shorter probably. If that happens. We also have not shown on here, 2 things that we promised. The folks who live here, their backyard is a slope up. She said she would like to get a piece of this so that they would have more

Village of Walden
Planning Board Special Meeting
August 5, 2019

flexibility and moving around and doing what they need to do in their backyard. And then there's one over here, somebody has a building off their property.

Member Pearson: There's a couple sheds off there.

Jerry Jacobowitz: One of them, I think she had a small daycare thing there for a while. She wanted a piece that would give her a bigger backyard, because of what she's got in her backyard. Then over here, there's a question of the property line. It's disputed. We're going to give these folks that piece of land. This triangle here is going to go here and maybe some of this piece here. I don't see that we really need it for anything that relates to it. Those are all things that would change and this part here, which historically had seven lots, because this piece was divided into 2 lots. Then there were 5 here. That got changed because we moved the road from where it was back in the 7 lot subdivision in time. We did that to have a single road. You can see here we're out in the road with this parking lot. We have to be back here before your board. So, this is conceptual to show we won't get the 22 lots.

Chairman Plato: I think it's important for the board to say that there is a concept.

Jerry Jacobowitz: It does work. The 2 exits in are covered. We have the drainage taken care of. That's going to help the condition on the road. Solve these folks backyard problems here.

Chairman Plato: The taxes you show for 2019. Is that total property tax or just Village of Walden?

Jerry Jacobowitz: The 5 industrial properties is just Village taxes. If anybody wants to see the original data, I printed it off of the tax rolls. The notes down there are kind of interesting. The Circus was tax exempt. So, we put in what the taxes would be. They didn't pay those taxes. Then on Nelco, when that was sold, the assessment went down from where it was in 2012, I think. It's surprising because they don't really pay a lot of taxes.

Chairman Plato: Under the power lines, you going to put a road?

Jerry Jacobowitz: We don't need that as a road.

Chairman Plato: I know, but there's parking, that could give you another possible exit out on to Elm Street.

Jerry Jacobowitz: This this area would have to get redesigned.

Building Inspector Stickles: You would have to come up a hill there to get onto Millspaugh Court.

Jerry Jacobowitz: Yes. Probably it would be in and out that direction.

Building Inspector Stickles: Did you get that from Central Hudson that you can park under those lines?

Jerry Jacobowitz: It's in the easement. That was a question raised when they condemned it. The more rights they take the less you have left.

Building Inspector Stickles: I didn't realize that was in the agreement.

Chairman Plato: The parking spaces are added up wrong.

Member Pearson: Should be 117.

Chairman Plato: It shows 110 available.

Village of Walden
Planning Board Special Meeting
August 5, 2019

Member Pearson: Although, if you look at the total space provided, it's 1 space per dwelling unit. So, is 1 right or 1.25 right?

Chairman Plato: The total space required is per code.

Building Inspector Stickles: I don't have the code in front of me right now, so I'm not going to tell you yes or no.

Jerry Jacobowitz: 29 times 1.75 can't be 58. 58 would be 2 times. So, it would be 51.5 spaces.

Attorney Dickover: I sent this to Mr. Jacobowitz. He may not have seen it and then sent an e-mail to you, Jerry, around 4:30-5 o'clock.

Jerry Jacobowitz: Yes, I got it.

Chairman Plato: There are a couple things with this and I'd like to know how this happens. And how do we stop it from happening again.

Attorney Dickover: It's not something that we or John get involved in. An applicant files an applicant whether it's with the Zoning Board, Planning Board, Village Board.

Chairman Plato: This is my understanding, correct me if I'm wrong, the applicant asked for to look at zoning change, paid some type of a fee for that. Village Board passes it down to the Planning Board for input. We had 30 days, which has been extended. To do an adequate review of the zoning change. It will require assistance or professional help from council and our engineering firm. But there was no way that that was, I believe, submitted to the applicant that were going to be that cost. Apparently there's no provision to handle that cost.

Lynn Thompson: Village Board Trustee, I thought everything was supposed to be handled through some type of escrow account.

Chairman Plato: I don't know, that's what I'm trying to find out. I think that should be the Village Board if they passed it along to us. My feeling is that they should have had provisions to collect those fees.

Attorney Dickover: 135 says, that's the fees provision of the Village Code, says that the fees are to be paid along with the application. I think the issue here is, a zone change petition is not an everyday thing. The Village Board doesn't deal with it on a regular basis. This board certainly doesn't. And I think it's one of those when the application was paid by Mr. Jacobowitz an escrow probably wasn't even considered.

Chairman Plato: I think that's exactly right. You're right, it doesn't happen very often, but I'd like to make sure that it doesn't happen again.

Lynn Thompson: Understood. I'm happy to take that back to John Revella and the rest of the board.

Chairman Plato: John's very familiar with it.

Lynn Thompson: We have a special meeting tomorrow evening at 5:00. So, I'm happy to bring this up.

Chairman Plato: Okay, because it's an embarrassment.

Lynn Thompson: Would you like me to ask John to respond to you directly?

Chairman Plato: No. I would like to see some type of provisions put in so that it doesn't happen again. Jerry, you are in receipt of this?

Village of Walden
Planning Board Special Meeting
August 5, 2019

Jerry Jacobowitz: Yes.

Chairman Plato: And you're probably well aware that we're under instructions not to even have the meeting tonight unless this taken care of.

Jerry Jacobowitz: If you did that you would be giving up your independence. You're and independent board. You all took an Oath of Office to uphold the law. Nobody can tell you not to have a meeting. Not me. Not the Village board. Not Mr. Revella. Nobody. I never knew about this until 1:07. I got it at 1:50 something from Dean. I went through it and now know what the \$2347 is for. I have serious issues with some of it. Right now, shooting from the hip, I really don't want to do that. I want to say that I'm not looking to stiff the Village. That's not the nature of where I am. When Dean sends me bills, which he does on Overlook. We turn around within 24 to 48 hours. We review them and send them back to him. Even though some of them are still issues in my mind why we're paying some of these things. I think Dean, you can attest to that. We don't play around with it. We get it right back to him. We never heard of this. So, now we know of it and we know that the Village has had expenses. I don't know what action you're taking tonight. I'd love for you to recommend what we're asking for so that we know that we're going to go forward and I'm not throwing the money away. Which is, if you don't recommend this in terms of where we are, we're throwing the money away. Between those 2 conflicting views, I don't want to stiff the Village. But on the other hand, I didn't get treated the way I should have with respect to this. Who's required to enforce this?

Chairman Plato: I don't know.

Jerry Jacobowitz: Whoever that is, would seem to me it's a matter for the manager. It's an administrator matter, for him to see the laws are enforced. That's why you have a manager. So, he should be seeing that the laws are enforced. He wants to sit down and go over the bills, so I can point out to him where I think there's issues in my mind. Right or wrong, I'm willing to sit down with him and go through it and try to come to a conclusion. I'm willing to promise that tonight no matter what you do. I don't want out there that I somehow fooled the Village.

Chairman Plato: I agree with that.

Attorney Dickover: The only other thing that maybe the board wants to consider is since there is no agreement that the consultant's views are to be paid. You could excuse John and myself from the meeting.

Chairman Plato: I don't think that's a solution.

Jerry Jacobowitz: That's to be determined yet. As I said, I want a chance to go over this with somebody and discuss it.

Attorney Dickover: The other alternative is to adjourn the meeting until there's some agreement on it.

Chairman Plato: But if we do that we're under a time constraint.

Attorney Dickover: The time constraint extension has been granted by the applicant but the Village can always wait and still accept a late report. That's up to the Village. There's no time clock with respect to the Village other than the time clock being yours, which is 30 days after the matter has been referred to you.

Chairman Plato: There's no time clock on the applicant requesting something to have a decision?

Attorney Dickover: No, it's a petition for zoning change. There's no clock that runs against the Village where there's a granted application or not, is wholly discretionary on the Village.

Village of Walden
Planning Board Special Meeting
August 5, 2019

Jerry Jacobowitz: Since this is a special need, the fees for your consultant, we'll pay those for tonight.

Chairman Plato: He has asked for a zoning change, from OL-I to RM2 and R3. This property has sat this way for a long period of time. We've had 3 or 4 applicants come in looking to do something and nobody did. My personal feeling is I think there's a lot of residential around there. I don't know if I agree with the multi-family complex. I don't see carving that out and leaving the rest of industrial. I don't think that serves a purpose.

Member Pearson: That doesn't work.

Chairman Plato: There was a good case made by Mr. Leis about the need for it. It's a high concentration of units.

Member Pearson: I think the plane before us is certainly more palpable than what was shown to us before.

Chairman Plato: I think so too.

Member Pearson: I mean the buffer of residential along the residential logs. I couldn't get over how you would just leave the rest OL-I. It's even less of a project than it was before with the piece where you develop the OL-I. The piece out by the road where somebody would come in and start their project. I think this is an improvement on that. The only thing I struggle with is if this is really working class housing, where would the pedestrian connection be? There is none. If you've got Coldenham Road, Edmunds Lane. There's no sidewalks. It's just so far out.

Chairman Plato: My thought at the last meeting, you've got 74 units. It would be good to have some retail space. Coffee shop, something. Inside the building or in that area. That's a large concentration of people with nothing.

Jerry Jacobowitz: We have a commercial area. It's Main Street. The problem with Main Street is that not enough customers. If there were more customers then there would be more attraction to do something on Main Street. If we now put a commercial area in another location in the Village, you're not going to be reinforcing the Main Street area. Which is your primary commercial street.

Chairman Plato: But you think these people are going to go on Main Street? I don't think so. Once they're in their car. There's parking and other issues on Main Street.

Jerry Jacobowitz: If somebody goes on Main Street and has a business and they have a better mousetrap or better sandwich or better whatever. People are going to go there. They have a lot of other places that have Main Streets. Our Main Street suffers from the fact 2 things. 1 we're too close to Newburgh and Middletown. 2nd is we don't have enough variety. There's not enough there to attract. You need more synergy that'll come from having more people. Even if not everybody who lives in this neighborhood goes to Main Street. There's going to be some going to Main Street.

Member Thompson: Jerry, I'm new to this board. I'm trying to listen and learn. But from what I see right here, I'm not overly happy with the multi-dwelling building. I don't like the fact that we have 42 one bedroom units.

Jerry Jacobowitz: You want more larger bedrooms? More 3s and 2s?

Member Thompson: Yes, I do. Personally, I would like to see the luxury building, too. Bring in median income families. I just don't see it. I'd rather see the whole thing to be maybe a single family lots.

Village of Walden
Planning Board Special Meeting
August 5, 2019

Chairman Plato: If this was all single family and we've had cases where I believe clustering come in and make a case where you could do multiple dwellings to save more green space.

Attorney Dickover: I've never had to deal with your cluster provision.

Building Inspector Stickles: I don't think we have one.

Jerry Jacobowitz: It's by delegation from the Village Board. I think there is a section in the village law that allows clustering upon the Municipal Board authorizing it.

Attorney Dickover: That's the state law, but then the Village would have to adopt its own clustering regulation pursuant to that enabling statute. I don't think the village has.

Chairman Plato: Maybe not. I thought we had looked at that.

Attorney Dickover: To answer your question, clustering is a way of typically giving the developer a bonus number of units or lots by virtue of them setting aside open space within the cluster. Clustering regulations typically are set up to protect scenic areas or geological features that are important to the community, whether it be a stream port or a wooded land or a meadow land. I don't know what this property has in that respect, I think it's more mining so there's probably not a whole lot left there. Even if you had clustering in the Village it, probably doesn't set itself up for that.

Jerry Jacobowitz: I'm disappointed in your view because it's the opposite of where we've been thinking that we should be in terms of the bedroom count. Everybody wanted to have places for a single family, single occupant and retired people. That's where the 42 one bedrooms came from. If you want more 2s and 3s, that's not a problem for a developer. It's the ones that are the problem.

Attorney Dickover: The project that's before you, it's actually a zone change, so the project that's come to you is one family bedrooms, that's the proposal. But that doesn't necessarily mean that's what's going to come out the other end. The mix of bedrooms and mix of bedroom counts. Subject to change really at any time during the project developing. But you're right, the project that's been presented is a lot of single bedrooms. The project has been presented to you and marketed to you as being that market. If it doesn't make sense the zone change probably still stands because the request changes to multi-family. But the mix itself could change and frankly probably would change during the development process.

Member Pearson: Where else is there RM2 in the Village?

Building Inspector Stickles: Oak Street. Only on 1 side. The right hand side is R5.

Attorney Dickover: Stan did you see Jason's e-mail today?

Chairman Plato: I did. I don't if everybody else saw it.

Attorney Dickover: Read Jason's email. I think the point is the same that if we carve out 3 acres and make it RN and you've got 7 acres remaining that are still zoned OL-I and there's been no market for 14 acres of OL-I, where the heck is the market going to come for 7 acres.

Jerry Jacobowitz: I don't disagree with that.

Attorney Dickover: That's kind of been voiced already. 2, how will the proposed zone change in future possible zoning changes fit in with the existing comprehensive plan? All in all I think we just need to have an understanding of the scheme/picture of the property intentions as a whole. In other words, what's in the future? I don't know that we have an answer to that.

Village of Walden
Planning Board Special Meeting
August 5, 2019

Jerry Jacobowitz: What if your recommendation to the Village Board is residential and for the Village Board to deal with the mix of uses and the number of bedrooms.

Chairman Plato: I don't think I have a problem with that. I wouldn't have a problem with the whole property being residential. Because it just sat there and nothing's happened in years and it's kind of a waste of a resource.

Jerry Jacobowitz: The Village is losing taxes that they would otherwise get on that property.

Chairman Plato: Well, maybe our board is concerned about taxes. It's a waste of resources.

Attorney Dickover: If the board goes in that direction, you're going to have back in front of you another petition for zone change. Probably for something other than RM2 and RM3. The 4 factors are going to be back in place.

Chairman Plato: What if we did something like, we believe this parcel should be re-zoned for R3 and RM2. But we don't know portion of it that should be.

Attorney Dickover: You can do that. It's basically a recommendation that this petition be denied, because they petitioned for 3 acres. So, you're going to get the petition or referral back again. This time presumably for the entire parcel. And the 4 questions, the first one is, whether the use permitted by that new proposed zone change would be appropriate in the area of concern? We've talked about that on the current application. 2nd, whether the public facilities and services including roads, water and sewer exist or can't be created to serve the needs of additional residences or other users likely to be constructed as a result of that change. 3rd, whether the proposed change is in accord with any existing or proposed plans in the vicinity. And we know what's going around on the outside of that, 3 lot subdivision on Millspaugh Ct and the Buddhist temple slated for some sort of a nature meditation place, which might be compatible. And then the 4th, this should be affected the proposed, again the new one for the entire parcel upon the growth of the Village as envisioned by the comprehensive plan. It would be contrary to that because a comprehensive plan talks about this parcel being held by law.

Jerry Jacobowitz: No it doesn't. In the submission we made to you, there's a legend that says that the property is subject to being rezoned for residential in accordance with the area.

Attorney Dickover: There's a foot note and an acknowledgement that it might be right for a zone change.

Jerry Jacobowitz: And that's in the comprehensive plan.

Attorney Dickover: So, that's the issues that are going to be back on your plate again if we go back with that kind of report. I don't want to run this meeting, but the prevailing discussion and comments I've heard from everybody is that zoning 3 acres residential doesn't make any sense, because it leaves 7 acres that are not going to be used for anything more than residential.

Engineer Queenan: That's the petition that's in front of you.

Chairman Plato: So, the petition in front of us is just to carve out the 3 acres.

Attorney Dickover: If you want to go with what you stated and the report back would be to the Village, that we're not in favor of this petition. We would list the reasons why and then a recommendation back to the Village Board that this board is of the opinion that the entire parcel should be rezoned.

Village of Walden
Planning Board Special Meeting
August 5, 2019

Chairman Plato: I would state that differently, that we're not in objection to this being the 3 acres being RM2. But the rest of it would be RM3. We're not opposed to the application to carve out the 3 acres for RM2. But with the proviso that the rest of the 14 acres be rezoned R3.

Engineer Queenan: I wouldn't say 3 acres specifically.

Attorney Dickover: That is the application that's in front of you.

Engineer Queenan: But for the recommendation I wouldn't the 3 acres.

Member Pearson: The acreage isn't right because they added this recreational area. That 3.2 has been on there forever and the lines have changed.

Attorney Dickover: Carve out a portion for RM2 with a proviso that the remaining parcel to be zoned R3. I'll put together a letter for your signature. Send it to you directly to proof or to Dean.

Member Pearson made a motion council would be directed to prepare a letter of recommendation back to the Village Board on the zoning board application of Kissaroo. The board is not opposed to a carve out of a portion of the entire property to be zoned for our RM2, but the remaining portion of the property the reason at this time to R3. Seconded by Member Thompson. All ayes. Motion carried.

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

C. DISCUSSION ITEMS: None

D. INFORMATION ITEMS: None

E. CORRESPONDENCE: None

3. COMMUNICATIONS: None

4. EXECUTIVE SESSION: None

5. MEETING ADJOURNED

RESPECTFULLY SUBMITTED
Marisa Kraus, Village Clerk
Planning Board Secretary