

Village of Walden
Zoning Board of Appeals Meeting
June 24, 2020

Chairwoman:	Rebecca Pearson	Present
Members:	Christine Scieurca	Present
	Gregory Raymondo	Present
	Mary Ellen Matise	Present
	Brenda Adams	Present
Alternate Members:		
Building Inspector:	Dean Stickles	Present
Village Attorney:	Robert Dickover	Present
Secretary:	Marisa Kraus	Present

Chairwoman Pearson - Called the Zoning Board meeting to order at 6:00pm with the Pledge of Allegiance.

1. APPROVAL OF MINUTES:

Tabled

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1 150 East Main St. Use Variance

Attorney Dickover: This application was noticed for public hearing this evening. Most boards under these circumstances, in the interest of fairness to the applicant, would open the public hearing and then carry it over until the next month to see whether or not the applicant makes the presentation. I know the board has received some written comment on this application, which would be a part of your record and perhaps we should acknowledge any members of the public that have entered the Facebook chat.

Member Matise made a motion open public hearing. Seconded by Member Scieurca. All ayes. Motion carried.

Chairwoman Pearson: We did get some letters. Mr. Palmer from Oakland Avenue. He was against this project. Mr. William Sestrom sent a letter; "I am opposed to the idea of a mini mart at this location. This is not a good location for me. Maybe Mr. Singh could find a better place in the Village". Mr. Sestrom and Kathleen Passineau; Number 1, traffic. The exit consists of Dunkin Donuts, Tastee Freeze. This would result in a head on meetings for too high traffic properties. Further east Main Street is enough traffic already with constant turnarounds for the ice cream and Dunkin Donuts. Number 2, which is environmental. The property is in a flood zone. Further, it appears there is a buried oil tank behind the structure. Number 3, parking issues. Number 4, noise. Number 5, light pollution. Number 6, litter. Number 7, not highest and best use. 2 other convenience stores within less than a mile and within 500 feet is Stewarts. We are requesting that the ZBA require a SEQRA review for this property, preferably type 1, as a requirement for the variance process. So that traffic study must be conducted. Having cars pulling out from Dunkin Donuts and the proposed store cannot possibly be a safe situation because of the high traffic count. Further, a Type 1 review will uncover any issues with the buried oil tank on the Tin Brook. Thank you for your attention. This matter respectfully. William Sestrom and Kathleen Passineau.

Member Matise: On the chat, he also elaborated on the traffic and parking. He said, "I'm confident the SEQR review will recommend that East Main will become one way and the middle of the 3 entrances be closed as minimum mitigating steps."

Member Scieurca: I have Alexandra, "we are opposed to it becoming a mini mart." Mark Kinaj, "I'm against this." Not exactly stating reasons why, but opposition to it.

Chairwoman Pearson: Alexandra, "I would like to add that the property lacks adequate parking so everyone would have to park on the street." So, we are just going to make a motion to continue the public hearing until the next meeting, which would be July 22nd. We are looking at possibly changing our time.

Member Matisse made a motion to keep public hearing open. Seconded by Member Adams. All ayes. Motion carried.

A.2 126 North Montgomery St, Area Variance Continuation

Chairwoman Pearson: Thank you for coming again this week. I re-watched the video and I did have some concerns. I'm just going to throw out my thoughts on this project. It's just that to me that this is not a single family property. It's really more of a big project now. It was sent to us from the Planning Board. It's not a single family home anymore. It will be a part of a bigger project. And when the attorney had said something to that effect that, will it change the neighborhood? Will it be something that's something bigger than what it is right now? I thought about that. Yes, it probably will be, meaning more equipment, not just one snow blower, not just a few tools. We're talking about trucks and plows and things like that behind this house for this neighbor next door. I have equipment like that at my house, a generator, snow blower. Things like that. I think there's going to be a lot more in that building than what we think and how it's going to be used.

Lou Donnelly: How much stuff can you put in the building? The building is the same size as your garage at your home. Probably smaller. It's a 2 car garage with a walk in. I'm not understanding, I hear what you're saying, but I disagree with you, because you can't put more than one truck in there. You can't put more than one snow blower in there. Really, that's all it's going to be used for. To me, what you're saying doesn't make any sense, because the building's capacity is its capacity. No matter what you put there and I could tell you this, that's part of the project. What will end up happening is maybe a bigger building will be put there if we take that building down, because we're going to need a building to put in snow blowers and shovels or whatever. First of all, I spent the money to come before the board and make this application and try to work through this. I didn't want to take the building down. Once it comes down, there's a big hole. If you go to the property, you'd see his house is actually built kind of around that. I'm not going to replant those shrubs that were there, because I could never match them. So, there is a big space there. Now you're going to take a neighbor who has total privacy right now, who's lived in that house for 50 years and is accustomed to that space being that way. You can't even see from their house from the driveway. Once that garage comes down, you're going to have a 26 foot space that's missing. Right now, this is not a big project. It's going to have a pickup truck, snow blower. More than likely, maybe not even a pickup truck, because I'm just going to put the snow blower attachment on the skid steer. The fact of the matter is that the garage can only hold what it could hold. I just want that to be clear. It's a standard sized garage. It has 3 parking spaces, which that's all that's going to be utilized. There's going to be one pickup truck there and perhaps a skid steer with a snow blower on it and a lawn mower. That's probably considerably less than you have at your property.

Chairwoman Pearson: I was just saying how I feel about the project. Let me go a little further, because, yes, you can take down the building and move it and the Planning Board, can make you put up a fence as a screen so they don't see that. The owner has a pool there. It's something that he has. I'm just feeling as a homeowner. What happens? You get the approval for this and then you say, oh, it's really not big enough. I want to add on to that. You've already gotten the approval for leaving it there and then you're going to add on. I'm not saying you're going to, but that is a possibility. It doesn't mean it can't happen. I'm just thinking for the future, for the homeowner that's next door. Hardship. I don't believe that there is a hardship either, because number 1, you haven't purchased the property, yet. You have the authority to purchase the property, but you know the circumstances of this property. Having to move that, you stated in a meeting that it didn't really matter whether you take it down or not. Then to me, there's no hardship. That's my thoughts on the project.

Member Raymondo: We need to address the garage. What is he going to put outside the garage. It's immaterial right now. He can put 10 trucks or he can put none. We just have to focus ourselves on the garage.

Chairwoman Pearson: That's what I'm focusing on. Do I want to leave the garage at the site of this side yard of the other person, or is it going to move where it belongs? If there's no hardship for this, we have to

Village of Walden
Zoning Board of Appeals Meeting
June 24, 2020

go by 4-5 criteria and one of them is a hardship. The hardship to me is not reached because the project hasn't happened. It can move. Mr. Donnelly stated he could move it. So I'm not sure where that hardship comes into play.

Member Raymondo: You're right.

Lou Donnelly: The owner next door to me received a certified letter stating that we were going to have this public hearing and what this public hearing was about. Now I know that that person did not raise any questions, did not complain, did not raise any issue with it. So, if he doesn't have an issue with it, I don't understand why you would have an issue with it. I really don't want to get into semantics. If you don't like it, if you're going to vote against it, that's fine. I have other things to do. I don't want to be rude, but I feel that you have something personal against me and it's been that way since week 1. Whatever I do you have a problem with. You have a problem with project.

Chairwoman Pearson: I don't have a problem with the project. I have a problem with parts of the project. I think a senior housing development is a great idea. Don't put words in my mouth that I have a vendetta against you. That's not true at all. It's not a vendetta against you at all. It's what the criteria we have to go by and thinking about that neighbor may not always be there. It could be someone else living there. And how close you are to that line is an issue. I'm just stating a fact. It has nothing to do with you, Lou. I think I've seen your senior project is great. I do have issues with the project, but I think senior housing is needed here. That's how I feel about that. So, don't put words in my mouth that I'm against you because it's not true.

Member Matisse: It's not a personal decision. When you when the Zoning Board is making a decision, we're encumbering that property forever with that decision. So that's what we're looking at. We're not looking at today, we're not looking at tomorrow, we're looking at forever. Until somebody else comes along and says, can I have a different variance or something else? But we change the use forever. And that's what we're looking at.

Member Adams: I'm concerned that the owners of the property next door. I wish they had come out and said that they were okay with this, but not say anything, we really don't know what they're feeling. I think we have to protect that, because the property right now they just have a residential home next door to them. But they're going to have a commercial space next to them. I don't know if they realize that there is going to be a change in the actions right next door to them.

Member Scieurca: I don't understand how you could take *inaudible* when there's an existing garage, already there. The man just wants to make it look better. I do agree with Mr. Donnelly in saying that I think you're not differentiating between what he's asking us to do and the entire project. We don't even know if the project will be approved by the Planning Board. They sent it to us if we can grant the variance for the shed that's already there. And what does he want to do? He wants to make it look better. What happens if we ask him to move it? Are we creating a hardship for him by asking him to do that?

Chairwoman Pearson: He already stated that he could move it. So, where is the hardship?

Member Scieurca: I think that the cost would be more than the variance that he is requesting.

Chairwoman Pearson: But we wouldn't know that because there's no money associated in this. We don't really know the hardship, because there's no money being told to us how much it's going to cost. We look at everything else when we look at other zoning issues. People have to come with financials. They have to tell us what it's going to cost and how come they have a hardship and why they're going to be doing that. This is no different than anyone else coming before us.

Member Scieurca: Why not ask him what the cost differentiation would be between granting the various and fixing up the building that's there and asking him to move it over? While I agree that protecting the

Village of Walden
Zoning Board of Appeals Meeting
June 24, 2020

neighbor is important, but again, like he said, the neighbor received a letter. All the neighbors received the letter within the specified range that they're supposed to get it. And if nobody spoke out against it, we can't assume that they're against or for it. They're just silent.

Member Matise: There is a very interesting situation with the neighbor's property, and that is that those are individual mobile homes that are owned by the person who owns mobile, who is renting from the person who owns the site. And there are people in mobile homes. 1 person who spoke to me and said they were not in favor of the garage being left there. Those individual people who are paying rent were not asked.

Member Scieurca: Right, but they're also not the property owner.

Member Matise: It doesn't make any difference. They live there.

Member Raymondo: If the present owner fixed the garage, then Mr. Donnelly buys the property, are we going to tell him to tear the garage down?

Chairwoman Pearson: No. Mr. Donnelly is going to is trying to get the approval for the homeowner that owns that property now.

Member Raymondo: But if I was the homeowner and I wanted to sell the property, the garages, I would repair the garage. I will go through the expenses to put a new roof, new door, fix the garage and then sell the property. So, what are you going to tell him once you do that?

Chairwoman Pearson: But the issue is that this is not a private residence. It may not be a private residence. The Planning Board is sending this to the Zoning Board, because of the issue with the distance, so this is not just the homeowner coming to say, I want to fix up my garage. It's different than that. It's different because it's part of a larger project and that's what I talked to Rob in the beginning about. Are we talking about this because of a larger project or are we leaving it just as a single family home for this minute and fixing up the garage. If it's coming from the Planning Board to the Zoning Board, I would be saying that it is a much larger project. And I'm looking at the project as a whole, not as just one single family piece of property.

Zack Peters: I just want to clarify a couple of things. The mobile home, that lot does adjoin this lot. It's actually the next property to the rear. So, it's a single family dwelling with the pool in the backyard that sits right by the garage. Also, the way that we looked at this, I agree with what Becky said, that the reason that the Planning Board sent us to the ZBA was because this is an existing nonconforming condition. So, if it sits now, it's uses are protected. But because we have the site plan application, it's going to lose that approval. That's why we're here. I would agree that there is a change in use in the property. The way that we looked at it is this is going to operate very similar to how a single family residence operates now. Someone could come in there and have a snow blower or a truck with a plow and shovels, that sort of small equipment. It's not a contractor storage yard where there's going to be a ton of trucks in and out and a ton of equipment. That being said, I think it's also, whatever maintenance garage there would be, whether the board grants and approval and it's this or he ends up building a new one. That and the office and the existing dwelling are going to be an accessory to the use of the senior housing. So, it's not like somebody can come in down the line and say, I'm going to turn this into a doctor's office with X number of employees and cars coming in. It's going to be accessory to this use and that's all it's going to be until there's another approval.

Chairwoman Pearson: So you get the approval for that on the property line the way it is now. In 2 years, it's decided that it needs to be bigger and it needs to be a larger unit because it can't store everything that they're storing. Right then and there, they have the approval to be on that property line so they can just make it bigger along that property line instead of having to move the building. Am I correct?

Village of Walden
Zoning Board of Appeals Meeting
June 24, 2020

Zack Peters: Rob, correct me if I'm wrong, I was under the impression that the ZBA has the authority to grant the variance to the extent that they thought necessary, which this is existing. So, it's pretty much a yes or no, but I thought they had the authority to implement certain conditions upon that. I don't know if that's exactly correct, but that was my understanding, that if you'd be able to approve it, saying that, it can't get any bigger or you can increase the set back or something along those lines. Is that correct?

Attorney Dickover: That's correct. On any area variance that the Zoning Board was to grant, you can impose reasonable conditions. They need to be reasonably related to the variance being granted. So, a condition that the building not be expanded in size. My opinion would be a reasonable condition.

Member Adams: I think that would be a smart move to put the condition that it just not expand anymore along the property line.

Member Raymondo: I think that's reasonable.

Member Matisse: I really just don't feel that we should encumber this property. It's going to be a big project and then you're encumbering the property in perpetuity. To me, that's an issue. It's in effect, if we don't grant it and we've already been told they will build another garage within the proper setback. Okay, fine. 1 condition I would say, if they don't want to tear up the pad that's there. Fine. Leave the pad. But that you cannot build on that pad. You can use the pad as a concrete pad for outside storage or whatever you want to do. But don't build on it. And if you're building a new building adjacent to it or in large going away from the property line so that you meet the setback, then I would entertain something like that.

Chairwoman Pearson: You're still saying to move it.

Member Matisse: They're saying that the building needs a new roof, needs new doors. How much of this building are they really going to use and that really is going to meet their needs. This is what we heard at the last meeting. This was also a presentation part of the Planning Board. Why are we beating a horse to death when it's old and needs repairs? When the code setbacks can be met? We've already been told that the potential owner and developer is willing to do that.

Member Scieurca: As a property owner, I would prefer you stated that he can use the pad for storage and such. I would prefer his storage in a building than on a big pad lying next to my property line.

Member Matisse: Maybe he just wants to park a truck on the concrete pad.

Member Scieurca: Even so.

Member Matisse: You don't think everything's going to fit in that little garage.

Member Scieurca: I think maybe that can be a condition, everything has to fit in that garage.

Member Matisse: I don't know if you can impose that condition.

Member Raymondo: You're assuming something that you are not sure of. You mentioned the neighbor with a trailer, with a pool. How close is the pool to the garage?

Zack Peters: The pool right now is probably, I don't have an exact dimension, probably. 20 feet.

Chairwoman Pearson: Probably 20 feet. I drove by the other day. It's set back in. It's kind of behind the house instead of on the property line. I think it's where it should be in code. Dean, is it still 15 feet for a pool off the property line?

Building Inspector Stickles: Has to be 10 feet.

Village of Walden
Zoning Board of Appeals Meeting
June 24, 2020

Member Adams: The point has come up that I think is very valid. Wouldn't it be better to have things inside the garage instead of on top? I have to agree with that. I don't think I would want to just see the truck sitting on top of the pad. I think for the neatness, it would look a lot better inside as compared to tearing it down. But allow him to use that same spot. I mean, that doesn't seem to work for me.

Chairwoman Pearson: So, what you're saying is to leave it where it is, make sure things are inside not all on the outside of that building. If he's going to have a truck, it has to be on the inside. We can put those kinds of conditions on?

Attorney Dickover: The question about outside storage really is one is for the Planning Board. Proposing outdoor storage is going to have to go on to the site plan. Be shown in and around this building. He has not shown that at this point. So, if he were doing outdoor storage, it would probably be in violation of any approved site plan that the Planning Board is currently working on.

Chairwoman Pearson: We could make a recommendation to the Planning Board that that's what the Zoning Board would recommend.

Attorney Dickover: You can certainly make those kinds of recommendations. Outdoor storage is an issue for the Planning Board. Listening to this meeting or being apprised of what was said about outdoor storage, I think the Planning Board may become concerned about this issue themselves. Whether or not this board can impose conditions on a variance. The answer is yes. Conditions could be at any storage must be inside this building. The outdoor storage is not approved by this variance being granted. You can write a recommendation or make a recommendation to the Planning Board to visit that issue.

Chairwoman Pearson: And we can also make a recommendation that the building will not be any bigger than it already is in the future.

Attorney Dickover: Any expansion of this building would require an amended site plan.

Zack Peters: I don't want to put words in the board's mouth, but what you're saying, we're perfectly agreeable to a condition like that it can't be expanded beyond the current footprint. The owners indicated that this will be sufficient to suit his needs. I don't think that there's any concern on our end in that regard. If there's going to be some sort of motion considered in regards to outdoor storage, I want to clarify if it would be applicable to if there's just a truck for maintenance. Is that something that would be included as materials that would be parked in there, not necessarily with a plow or anything, but just a vehicle? I just want to make sure that was clear.

Chairwoman Pearson: A lot of times people put their plow on the outside of a building and then they put the truck inside. When the plows off, I don't want to see a plow all summer long. That kind of thing, put it in your building, that's what your maintenance building is for. I think as a neighbor, that's going to be that close, I don't want to see that. I live really close to people. So, I do see things in my neighborhood that I don't even like, but I can't help that. If I lived there, it has more open space. This project is a big project. I think that they can figure out where to put things without being on the outside, if that's something that the board is amenable to.

Zack Peters: I totally agree about the plow. I'm talking about just the vehicle. If they pull in and park the vehicle in that driveway and it sits there, is that going to be an issue?

Chairwoman Pearson: Did I see parking spaces by that behind that office building? I saw 3 spaces on the plan.

Zack Peters: Yes.

Village of Walden
Zoning Board of Appeals Meeting
June 24, 2020

Chairwoman Pearson: So, they have spaces to put a truck in one of those parking spaces.

Zack Peters: Okay, I just want to make sure that that wasn't considered part of the equipment. If it's just a truck with nothing on it.

Chairwoman Pearson: I'm not sure. I would have to ask the board that question. What are you talking about equipment? I know we're not going to make an issue on equipment, but just this is part of the whole process. Truck outside, truck inside. You want everything inside, you want certain things outside? If we're gonna put conditions on, we might as well know what the conditions are going to be.

Member Matise: The developer just said that all the trucks and everything would be inside.

Member Adams: You heard him say that a truck is not a bad sight to be. I mean, in anybody's might have a truck.

Member Matise: I understand that. But that's not what I'm saying. That's what Mr. Donnelly said.

Zack Peters: I think his point was that it would fit in the garage. I'm just saying, if there's an instance where it wasn't parked in there, we don't want to be in violation or something like that. The truck is all I'm looking for the clarification on. I don't think there's an issue with anything else being required to be inside. I look at it as the truck, as a truck that could be parked in a driveway one way or another.

Member Matise: This, of course, is before the Planning Board. Is there going to be a realignment of the driveway? Or is the driveway going to go in and go up and come around the house? Is there going to be any change in that?

Zack Peters: The driveway for the house that is there now is going to stay as is.

Member Matise: Is there a turn around on the property, for the pickup trucks or cars, so that they go face out onto the state highway?

Zack Peters: Yes. There will be adequate space to turn around, to get in and out of that driveway.

Member Raymondo: We're getting away from the issue.

Chairwoman Pearson: It's part of the issue because if you're going to put a condition on it, then you need to know what you're going to put in the shed or not.

Member Raymondo: You can't say what is going to be put in the shed. But if there is a driveway by the house and he wants to park his car there.

Chairwoman Pearson: I think what Mary Ellen was getting at is she's maybe thinking of winter time when there's a snow plow on it and they have cars in the back of the office and is there a turnaround space or is he going to back out onto 52?

Member Matise: You can't back out onto a state highway. That's illegal. So, he has to have a turn around on the property.

Chairwoman Pearson: Then that's a Planning Board issue, not ours.

Member Matise: But that's part of how much space is the building taking up or if he's building a new building. What's the configuration going to be there?

Chairwoman Pearson: Well, there's parking there now, because there's cars parked behind that house.

Village of Walden
Zoning Board of Appeals Meeting
June 24, 2020

Attorney Dickover: Before you move on, just for the record, let's state that there are no members of the public in the Facebook chat with respect to this meeting. You do need a motion to close the public hearing. But before you do that, there should be some acknowledgment whether or not any written comments were received from this time back to the May 27th meeting. That was one of the reasons we left the meeting open.

Building Inspector Stickles: There was only one comment and it came from Mr. Berger, who lives on Liberty Street, who would like to see the sand pit remain as it is. It's a general comment for Planning, Zoning and Village Board.

Chairwoman Pearson: A Facebook question is, "if any other citizen bought this property, they wouldn't be able to park a truck outside the garage." The answer is, we didn't decide that or not decide that, yet, Alexandra. I don't know what the board is going to say about that. I think that they're probably going to allow a truck to be parked outside. What they're talking about is making restrictions so that equipment is inside the garage instead of all over the back of the yard so the neighbor can see it. That's my take on it. I'm not sure how they're going to vote or what they're going to talk about, but that's where we're at. Thank you for asking that question.

Attorney Dickover: Just on this note, another citizen is not going to buy this property because it is part of the entire senior citizen project. This is not a subdivided lot. It's not for sale. I would suggest the board, if you're going to entertain granting this application that you impose some conditions with respect to the non-rental of this garage for any uses other than those of the project's applicant, as it's been described. Otherwise, you may run into an attempt to rent it out if they're not using it themselves. I think it's very likely that there will be an application to follow the site plan that's before the Planning Board for a full time, regular, much larger maintenance building. At which point this building may become obsolete. It may be an attempt to rent it which would be contrary to what I'm hearing the board saying about it's use at this time. I would ask you to consider that as a condition.

Member Matisse: Where would the other building be?

Attorney Dickover: I don't know. But this is a fairly large parcel and there's only a small piece of it being used by the current building and parking associated accessories. I'm sure there's room somewhere for another building. If the board's ready, we have no written comments. I think we've confirmed that what we see on the Facebook page. A motion to close a public hearing would be in order at this point.

Member Matisse: I'm looking at a picture that I took of the property and the car that's parked behind the house is really right up against the garage and there really is no turn around room. I don't know what they're thinking.

Chairwoman Pearson: I would say that that would have to be a Planning Board issue. Not our issue, because they're going to have to figure out how that's going to happen.

Zack Peters: Yes, that's correct. Whatever the board grants, we have to comply with it. If we can't comply with it, we have to do something different. That's the way I look at it.

Member Matisse: If this garage weren't used and you were building a bigger garage next to it or wherever you were gonna place it, then you would put in turn round room.

Zack Peters: There's turnaround room there now. The garage sits right at the dwelling. There's a turnaround area located behind the dwelling. We're also proposing to extend that back further to accommodate some of the proposed parking spaces that are there. So, we have no concerns over the turnaround area.

Village of Walden
Zoning Board of Appeals Meeting
June 24, 2020

Chairwoman Pearson: With the garage, if it stays where it is now, are you talking about more parking behind, up past the garage and in the back of the garage, so that the person will see parking from his backyard?

Zack Peters: No. What it is, is there's the gravel area where the turnaround for the garage is now, you come straight back into the garage and then you back up, backing into the site, basically, behind the house. We're just going to bump that back a few feet to provide enough turnaround space there.

Chairwoman Pearson: So, there won't be additional parking past the garage on the back end of this property.

Zack Peters: There will not be.

Chairwoman Pearson: Because that leaves it open for the neighbor that doesn't have any shielding there either for like a fence or anything because the garage kind of stops there. I didn't know what the plan was for the back side of that garage if it's left there. Nothing is proposed for the back side.

Zack Peters: Nothing's proposed there. There is a pretty substantial amount of landscaping that comes down. I don't recall exactly how close it's going to end up being to this garage, but I know the Planning Board requested. There's a row of evergreens and other landscaping that kind of wraps around in this area. The main portion of the proposed development is going to be screened by that.

Member Raymondo made a motion to close the hearing. Seconded by Member Adams. All ayes. Motion carried.

Attorney Dickover: The Planning Board declared itself Lead Agency on this project some time ago. Probably a month ago, resolved to issue a Negative Declaration. This board is free to do your own environmental review and make a different determination. However, based upon the Planning Board's Lead Agency status and that determination, my suggestion is that you adopt the Negative Declaration as issued by the Planning Board. That would conclude your environmental review of this project. It would be a motion to adopt the Planning Board's Negative Declaration as your own.

Member Raymondo made a motion to adopt Village of Walden Planning Board's Negative Declaration. Seconded by Member Adams. All ayes. 4 ayes. 1 nay (Member Matise). Motion carried.

Attorney Dickover: Just for the record, this matter was referred to the Orange County Planning Department pursuant to Section 239M of the General Municipal Law. That department reported by its letter dated March 9th, that this was a matter for local determination. At this point, the board should go through the 5 factors, create a record with respect to your findings on each. At the conclusion of which, if there's going to be a resolution, I would suggest the board direct counsel for the Zoning Board to prepare a decision which is consistent with your findings. Then undertake preparing a written decision that the board could then consider and perhaps adopt at your next meeting, then have it in writing it would be approved. Presumably that evening.

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 it can.

c. Is the requested area variance substantial?

Chairwoman Person spoke for all by answering no.

Village of Walden
Zoning Board of Appeals Meeting
June 24, 2020

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.

Attorney Dickover: Perhaps just on the whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood. You might also consider that if the use of the building is limited, as the applicant has indicated, they will limit it to storage of one truck, snow blower and the outdoor storage is limited. You could make a finding that there would not be an adverse effect on the physical or the environmental conditions in the neighborhood. There seems to be some different thoughts on the 5 factors among the board. I don't really know at this point what kind of a decision I would write, if they're granting the variance with conditions or denying the variance.

Member Scieurca: Whether it's a yes or no to the 5 factors, does that have to determine the way we vote?

Attorney Dickover: In an area variance, let's say, a no or an adverse finding with respect to the adverse with respect to the 5 factors is not determinative on the question. Your job here is to weigh the benefit to the applicant that the variance is granted against the detriment to the health, safety and welfare of the neighborhood or the community.

Member Scieurca: I think actually on a whole, I am in favor of the upgrade and leaving it where it is with the restrictions that we discussed. I think our biggest thing is we want to see everything inside the building. As far as parking a truck outside during the day, I don't see a problem with that. At night *inaudible* nice and tidy up. I think that enhancing the building and fixing it up would be a benefit to the neighborhood.

Member Adams: I agree. I don't have a problem with this.

Member Raymondo: I agree with Christine and Brenda.

Member Matise: Going back to if the benefit can be achieved another way and I think we've already been told, yes, numerous times that it can be. I really don't see encumbering this property forever. I have a garage that's over the line. And if that garage comes down, shouldn't the Village tell me, move your garage back, get off the line? We have a lot of issues like this in the Village and this is a chance to correct it and why shouldn't it be corrected if the applicant is willing to correct it?

Member Adams: This isn't a residential property, it's a project.

Member Matise: Because it's a project, they're going to be doing a lot of construction and why not take care of this building and get it off the guy next door's lot when it's not even a foot away from the other guy's line? Move it to the proper set back going forward. This is 2020, it's not 1920.

Member Raymondo: But the next door neighbor doesn't complain.

Member Matise: You don't know that. What if the guy goes to sell it and then somebody says, why do I want to buy your trailer park, which is worth a lot of money when I have this problem next door to me that never got resolved?

Chairwoman Pearson: Well, then he could be at the meeting. He could talk to us.

Member Matise: So, why can't we correct the situation now going forward?

Village of Walden
Zoning Board of Appeals Meeting
June 24, 2020

Building Inspector Stickles: The property that is next to this garage is not the trailer park. It's a single family house.

Member Matise: If you're a single family house and say it's worth \$250,000 in today's market. Don't you want the problem resolved? Don't you want to get your money's worth out of your property?

Member Raymondo: But he's not selling the house.

Member Matise: You don't know that. He might decide to sell it once this project goes in. We're here to safeguard that guy's property also.

Member Raymondo: You're assuming something that you're not sure of.

Member Adams: He had an obligation to be here and speak his peace then.

Member Matise: You don't know why. Maybe the guy is sick. How do we know?

Member Raymondo: How do you know?

Chairwoman Pearson: Rob, there are 3 people that are kind of moving forward with leaving where it is. So, I think if you want to make that with the conditions, I don't know how hard it is to do 2 different ones.

Attorney Dickover: I will prepare a resolution consistent with the board's findings this evening, probably having one in the affirmative and one in the negative.

Chairwoman Pearson: Okay. There is no vote tonight. We're carrying this to the next meeting then and we'll have that resolution from you and then there'll be a vote.

Attorney Dickover: That's right. There may be modifications at the meeting with respect to the resolution as soon as I draft them.

Chairwoman Pearson: We've been doing our meetings at 6 o'clock. Is that hard for people if we're online? Is it better in person later? 6 o'clock is tough if I have to be somewhere. I don't know if it's a good time for everybody else.

Member Raymondo: 6-6:30 is fine.

Member Scieurca: 6-6:30 is much better than 7:30.

Attorney Dickover: Either one is fine. I don't have any meetings before this meeting, so I'm not any place else other than coming from my office. I would be in favor of a 6 o'clock meeting going forward.

Chairwoman Pearson: We can change the time with no problem at all?

Attorney Dickover: Before I answer that, I want to take a look at the Village code on that question and the annual calendar with respect to that. If we're going to have a resolution, perhaps we would adopt that at the next meeting.

Chairwoman Pearson: Zach we'll let you know the time and whether it's in person or not.

Zack Peters: No problem. Thank you so much, everyone.

A.3 19 Orchard St, Use Variance continuation

Village of Walden
Zoning Board of Appeals Meeting
June 24, 2020

Chairwoman Pearson: We received some pictures of the inside of the building. Is that from when you left that with Dean or did you drop them off just recently?

Joy Guerrero: No, that must have been last month. I think that was days before the last meeting. Not initially. I stopped by his office maybe 5 days before previous meeting.

Chairwoman Pearson: We received the pictures of the layout of the floor plan.

Joy Guerrero: For the benefit of time, I actually reconsidered. Just to keep things simple. I spoke to my architect, lender and I decided to just keep it the way it is, commercial. Do the addition and rehab the top.

Chairwoman Pearson: Are you talking about an apartment up on top?

Joy Guerrero: Yes.

Chairwoman Pearson: Would that be a new application, Dean?

Member Scieurca: I thought there was an apartment on top already.

Joy Guerrero: Yes. I'm just basically following up your suggestion as you said last time. Keep it commercial. Make use of the space upstairs as my living place.

Chairwoman Pearson: Does he have enough square footage at the top 900 square feet for an apartment on top? He doesn't have to come before the Zoning Board for that?

Building Inspector Stickles: The only way he would have to now come in front of the Zoning Board would be similar to what Donnelly was there for, would be an area variance. But I don't think he's going to have to. *Inaudible* the survey and we could determine that.

Chairwoman Pearson: The best thing to do would be to talk to the Building Inspector. If you're going to leave that commercial on the bottom and not do an apartment on both floors. He'll be able to tell you whether you have enough square footage for that final apartment at the top. That doesn't have to come before the Zoning Board. I do not believe so.

Attorney Dickover: Joy, are you withdrawing your application for the variance to this board?

Joy Guerrero: Yes.

Chairwoman Pearson: Dean, he can have commercial on the bottom and an apartment on the top floor as long as the size is right.

Building Inspector Stickles: He can have commercial on the first floor and their residence on the second floor with the proper square footage of that apartment in that zone.

Chairwoman Pearson: You have 900 square feet on the second floor for a proper apartment above commercial.

Joy Guerrero: Yes, I actually have more.

Chairwoman Pearson: Then you can decide whether you want to withdraw your application or not. You would just be speaking with Dean then on the next application.

Building Inspector Stickles: Should he put a withdrawal in writing or is this enough just on a meeting?

Village of Walden
Zoning Board of Appeals Meeting
June 24, 2020

Attorney Dickover: He's here and present in the and his verbal withdrawal would be sufficient. We do not require it to be in writing.

Chairwoman Pearson: In order to move forward, you have to either withdraw your application or we have to move forward with this one.

Joy Guerrero: I withdraw my application.

B. FORMAL APPLICATIONS:

B.1

C. DISCUSSION ITEMS:

Chairwoman Pearson: What is happening with training? Are we doing any training through the county at all? Marisa have you seen anything come through?

Secretary Kraus: No.

Chairwoman Pearson: I didn't know how we're going to be doing our training. Rob, have you heard anything about training?

Attorney Dickover: No, I have not heard anything. I imagine it's all been suspended during the current shutdown. So, it's unlikely that there's going to be anything announced for at least the next 30 to 40 days.

D. INFORMATION ITEMS: None

E. CORRESPONDENCE: None

3. COMMUNICATIONS: None

4. EXECUTIVE SESSION: None

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

RESPECTFULLY SUBMITTED
Marisa Kraus, Zoning Board Secretary
7:30pm