

Village of Walden
Planning Board Meeting
March 21, 2022

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

Chairman Plato - Called the Planning Board meeting to order at 7:30pm with the Pledge of Allegiance.

1. APPROVAL OF MINUTES:

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1

B. FORMAL APPLICATIONS:

B. 1 ARB 35 Main St, Sign

Member Thompson made a motion to approve sign for 35 Main St as presented. Seconded by Member Wilkins. All ayes. Motion carried.

B.2 Overlook at Kidd Farm, Approvals

Jerry Jacobowitz: Eric Scott, Steve Brown, John Stack are people that are interested in the property. They are here to observe what happens with the final approval. Your attorney has taken a different position. *Inaudible* Which comes first. Chicken or egg? This needs to be passed tonight. Grant the approval. We understand, everyone has their view. Let us move forward to go get the bond and present it to you. Sorry if I sound emotional. Tell me what I need. I'm here.

Attorney Dickover: First of all, up until yesterday, *inaudible* site plan approval, expires March 31st. Other condition for permits have not been satisfied. At this time I do not recommend the board approve the phased project. Still don't have detail for phase 1. Hasn't been bonded.

Marcia Jacobowitz: Those are 2 different things.

Heavy discussion between Attorney Dickover and Jerry & Marcia Jacobowitz

Chairman Plato: How long do you need to review?

Attorney Dickover: At least 3 weeks. I'm away.

Jerry Jacobowitz: Suggest grant approval with condition with whatever Rob says. Want to go on property and start doing things.

Member Pearson: Wouldn't that be posted before you start?

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Jerry Jacobowitz: Here's the bottom line, prior to issuance of the first building permit. We don't even need the bond to get you to sign the map. According to this resolution. If you want protection.

Chairman Plato: You came up with, on your own property if you cut trees and put in a driveway, you can do that, so why can't you start the approvals?

Marcia Jacobowitz: You can't because you can't go to a bank to go get money if you don't have an approved project.

Jerry Jacobowitz: You see those 3 guys? They're sophisticated business people who've done this business. You think they're going to go in and start putting money in the ground without an approval?

Marcia Jacobowitz: I've been listening to this for many years. I appreciate what you said, but if you really think there is conflicting information, your resolution states certain things. There facts. There stated on this paper. There's paper evidence of the things that needed to be done. Having been done. Both site plan and for subdivision. They're not bifurcated. As Mr. Dickover was alluding to that is incorrect. It's for site planning subdivision, the same positions. If we meant it for site plan how could there be a position that they weren't meant for subdivision? They're the same. I appreciate when you hear from your attorney that you can't recommend something. However, he doesn't vote. And this has been going on for how long? We're at that point where you want this for the Village. We want to make it happen for the Village. He's been doing every single thing that's been asked. It's time now to give the final approval to move forward and build the project if the Village wants the project. Mr. Dickover obviously, and I don't want to be disrespectful. However, I do my work. If I represent somebody, I do my work and I look at what I receive and I review it. and then I comment on it and I send it back. If that wasn't done, I'm going to leave it at that.

Member Pearson: What do you have to say about Mr. Dickover's Comments about this just being on for an extension?

Marcia Jacobowitz: Because we can't move forward.

Jerry Jacobowitz: He said he wouldn't give us an extension. And the other one is discretionary.

Attorney Dickover: There is a durational limit with respect to the site plan. By the dates that we're given his prior extension on site plan would expire March 31st. It is and has been and remains that it expires on March 31. With respect to that, he has now satisfied the conditions for that. And if he chooses, he can present the plan for site plan signature. He has up until March 31st to do that. I don't think it requires any further action on this board. They asked us if we would put that in the minutes I stated on the record. Mr. Queenan has agreed with that and we would tell the Chairman if they present the site plan to you in proper form, you're free to sign it. With respect to the subdivision. There are durational limits. It will expire and this board is free to grant an extension, a 90 day extension with respect to the preliminary subdivision. That's been my position. That remains my position. It's my position tonight.

Member Thompson: Does that also expire on the 31st?

Attorney Dickover: I believe it would. I haven't really had to study that issue up until now. But I believe the day is the same.

Jerry Jacobowitz: I don't know what you're afraid of. If you share your fears, maybe we'll find a solution. I don't see what there is to fear, but it's in your heads and hearts. If there's something you worried about? Tell us so when you tried to solve it. Is it you're uncomfortable because you might want to do something different than the lawyer said? He's got a thick skin. He won't be offended.

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Attorney Dickover: Mr. Chairman, this project has been before the board for many, many years. The last time that we looked at the resolution, you were asked to put in a phase subdivision approval, which has terms and conditions to it. It's been months, if not a year or more since this board reviewed that and since I looked at it. I need to look at it. I'm not in a position to make the recommendation to the board that you approve the subdivision.

Member Thompson made a motion to grant the site plan for Overlook at Kidd Farm. Seconded by Member Pearson. All ayes. Motion carried.

Member Thompson made a motion to grant a 90 day extension on the subdivision for Overlook at Kidd Farm. Seconded by Member Wilkins. All ayes. Motion carried.

B.3 39 Edmunds Lane, Site Plan/Subdivision

Ross Winglovitz: We did receive a memo from Mr. Dickover today that was one of the clarifications we were looking for, but not what we were hoping for. *Inaudible* than the application to Dean regarding his interpretation of how that section of the code may be applied to be a leasee versus an owner of the property. I don't know if had any comments since we were a concept phase and we have to deal with the legal issues that may be the extent. I advise my client to prepare to hire an attorney if he wants to pursue this path. Couple of comments John had was regarding width of the lot in the rear. So, we widen the frontage so that the lot in the rear now complies. Emergency access around the building, provided that as well. Updates to the EAF and some consistencies between the EAF and plan notes have been resolved. John mentioned about the building height, but it is 60 feet so it's different for the 2 uses so we clarified that for the plan. The circus use allows up to 60 foot high for a temporary structure for the tents. Provided a copy of the DEC wetlands delineation map. We provided hours of operation for training facility, approximately 2 months that they're there, 7 a.m. to 7 p.m. daily. We've also had parking spots specifically at the rear for the circus operation. Notes about specific tree clearing.

Chairman Plato: We don't have a dedicated access that is linked to the back.

Ross Winglovitz: Correct. It's a common access drive. It's for the most part, it's existing today through their services through the rear of the property.

Chairman Plato: You have down here the premises must be not for profit. That wasn't the case before, I don't think.

Attorney Dickover: That was before my time. There was a code provision change, which may have changed that. I'm not sure. I thought the Big Apple Circus was a not for profit, but maybe it wasn't.

Building Inspector Stickles: Big Apple Circus did own 39 Edmunds Lane. They were not for profit.

Ross Winglovitz: What we're looking for is basically a sketch plan perspective. What we resubmitted to you with the additional emergency access drive, corrected the lot line so that we could meet the interpretation of the code with the lot width that the board believes this is an acceptable sketch plan so that we will spend a lot of time doing engineering. We need to do grading, drainage, water, sewer and so forth.

Chairman Plato: Do you envision Big Apple buying that property?

Ross Winglovitz: No, they're in a 5 year lease.

Chairman Plato: When they were here before, they would do like a trial run for the Village Hall. Which was very, very nice of them and very well received. I see a problem parking the front lot allows parking there.

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Ross Winglovitz: I can see that happening, because that would probably be on the weekend when the warehouse would not be occupied so there would be plenty of parking up front.

Chairman Plato: Could you make that part of your lease?

Ross Winglovitz: I can ask.

Building Inspector Stickles: After the 5 year lease is up in and the Big Apple Circus decides to move, what does this property become?

Ross Winglovitz: The use becomes abandoned and we'd have to come back for another use for the property.

Engineer Queenan: That's why the changes that Ross has made has made that into a conforming lot in the zone. So if the circus does leave, it's just a vacant parcel that have to come in for a site plan.

B.4 98 Gladstone Avenue, Site Plan/ Special Exception Use

John Rich: Our engineer has updated the survey and provided the Village with hard copies and addressed as requested. Not limited to location of hydrants, meets and bounds, underground utilities into each building. There was a comparative analysis narrative that's been provided for the final record. The site plan has been updated to illustrate the existing parking stalls. In regards to the sprinkler requirements and apparatus access road per the State Building Code. The current edition, there are no requirements for this project. The State Code Division reads. Provided e-mail correspondence of the same. In conclusion if the board is satisfied, respectfully ask this board to close the public hearing and approve our application for site plan special exception use.

Engineer Queenan: We have a comment letter dated back from January. That was also held over from the February meeting. Some of the comments were addressed and some have not. Just to give you the background. The board had a public hearing on this application in December. The applicant was to return for January meeting and that meeting was canceled. We then had the applicant on for the February meeting. The applicant was not in attendance at that meeting. And that brings us to the current status of where we're at. We were in receipt of a survey map that has some information on it and it still has conflicting information from prior comments. Just to clarify, the applicant indicated to the Planning Board that in their comparative analysis that there would be no changes to the site line, no signage was proposed and that there will be no outdoor speakers or bells. The applicant indicated that the plan for the Planning Board for this were 20 to 30 students, with between 2-4 staff members at this time. 2 of which will be the 24/7 caretakers and they will reside on the property in the existing house. There's also a site plan that was prepared by the applicant. They both denote bus entrances and exits, loading and unloading that refers to note number 5 on the map that says that it's subject to an easement in favor of the Village of Walden. The site plan has the same notations but does not offer that note. It's been conflicting information from the applicant, whether busses will come to the property and pick up a drop of students, or whether it would be by family members picking up and dropping off. We've heard both versions. I think it's incorrect. I believe the last iteration from the applicant was that there would be no bussing to the property. The notation of the easement should be clarified, because I don't think that easement goes to the Village. The notations for bus entrance, exit, loading and off-loading, should be removed. The survey map, we asked for because we require a certified survey for the site plan. The side yard measure needs to be recorrected now that the property line is corrected with the water tank. The bulk table should be updated on the site plan. Our office is still recommending that the fire access road be designated, be striped and be signed. At least around that front turn around. I don't disagree with the applicant's take on it. I don't disagree with what the Department of State has said, but quite honestly, common sense that front should just be at least striped, No parking, No Standing, Fire Lane. The parking spaces in the back, they've now shown them to be striped. That's been addressed. Then we just had another comment about the dumpster shown is blocked out of the parking spaces, which should be an area that's readily accessible. The other comments go back to what was discussed at the public hearing.

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Are there areas to accommodate more than 10 cars if there is a function at the school? You have one way circulation, I don't know if there should be some additional signage that goes around the site, just the direct. Those issues are kind of left open ended. And just to be clear, the narrative states that you will be up to 50 to 60 students at their maximum. But approval you're seeking now is just for 20 to 30.

Representative from Darul Arqam: Correct. We are not anticipating anything more than more than that we believe.

Engineer Queenan: It ties in to the original approval which was 20 to 30 students. I want the applicant to be aware that that's what he's asking for.

Chairman Plato: Why don't you try to get approval for the ultimate amount? So you wouldn't have to come back in front of the board.

Representative from Darul Arqam: We put in whatever we expected. Obviously we don't know what's going to happen in the future. There's the previous narrative of the previous owner that was approved by this Planning Board. It said that the maximum 60 or 70. We are pretty much going off of that and not beyond that. I think they went up to some 30 or 40 students. It's a student enrollment issue. It's not in my hand to say how many students I have right now. I anticipate 20 or 30. About the carry over. The previous owner, who was using the bussing on the property because they were taking the students to a school offsite. We do not have any bussing. I want to make that that clear, for the record. We do not have any bussing. There will be private transportation once or twice a year based on schedule. That's why only the staff members will be bringing the cars, which you see on the narrative.

Chairman Plato: When you have something, like a graduation, that families come, where do you expect them to park?

Representative from Darul Arqam: This property really doesn't have a big space to gather. It has a private chapel for the people inside. I think at most it can hold maybe 50 people. So we don't anticipate having those functions at this property.

Chairman Plato: Any outside recreation?

Representative from Darul Arqam: *referred to map*

Member Pearson: If it's a paved surface it should show up the map.

Engineer Queenan: What you have shaded in gray is paved. So, if it is paved, you should add it and note it as recreational in this area.

Representative from Darul Arqam: I believe the final narrative was submitted with all differences removed. Our school year will start after the summer. We need to have that admissions going. We need to obviously have something now where we can rely upon telling the parents that they're sending their children over for dormitory and this entire set up. We humbly for the betterment of our children and their education, that we get some kind of approval that we can before and these things we are very happy to update. We're very happy to clean up the plan.

Attorney Dickover: My notes reflect that back in November of last year, the matter was introduced to the board, the 239 referral was required and it was referred. The board declared itself lead agency that night. Typed the action as a type 2 action. On December 13th, the Planning Board again met, a public hearing was opened on the amended site plan application. The 239 response from the county had been received with local determination recommendation. The public hearing was closed that night. Public comments were received from a number of the members of the public. I was asked to prepare a memo with respect to whether or not the board could require greater staffing in excess of the two that were being requested

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in the residence, and also whether or not security cameras could be considered to be a condition of the approval. I did render a delivered a memorandum in connection with those two issues to the board on December 20th, finding that neither one of those would be appropriate types of conditions to be imposed by the Planning Board. Thereafter, the meeting of I'm not sure what happened in January. I don't know if it was on the agenda or not. They were not here for the February 14th meeting. Since that time, I think John has brought you up to date on what's transpired. At this point, from a housekeeping standpoint, the board has done what you need to do. If you're satisfied with the engineering and the comments provided by the engineer, it's up for discussion.

Chairman Plato: I would like to see the plan updated as discussed.

Engineer Queenan: If you want to see them again. Or you can make it a condition of if you're so inclined to do that. Most of it is taking notations of the bussing off. You can certainly look at it again.

Attorney Dickover: You could consider a resolution approving the amended site plan application submitted by the applicant with the conditions that they present an amended plan, meeting the comments or addressing the comments brought up by the board's engineers this evening. We might want to list those because I'm not exactly sure where we're at on those. And then I would also suggest that if you're going to move in that direction, that the resolution incorporate one that the applicant has to operate the school in compliance with the narrative that was and I may have this wrong, but my understanding is that they're going to operate in conjunction with the narrative that was approved by this board from the Chapel field application with some minor modifications and we should list those. But I would note that the manner in which they operate the school internally, meaning their hours of operation and religious studies and prayer times and things like that are not proper considerations for this board. So when we're amending or talking about amending the narrative, we should talk about the number of students, initially, I think that number is consistent and you're proposing 20 to 30 students, initially. Boarding capacity, not to exceed 70. I believe that's consistent with the Chapel field approval. There may be some others that we should talk about, but not those that deal with the internal operations of their business.

Chairman Plato: I think before approvals, we should clean everything up. The number of students. Bus access. Number of employees.

Engineer Queenan: I think what we should have the applicant do, as Robert said, take the narrative and comparative analysis and include that.

Chairman Plato: Yes, I agree with you. Once you present that and everything's cleaned up. It comes at some point I don't have a problem with those who are supporters.

Member Pearson: It's conditional approval, Everything John said, including the taking busses, providing documentation.

Engineer Queenan: I would actually just reference my last memo to the board, which was last month. We have the comparative analysis. The applicant confirmed what is here is correct.

Member Thompson: It's not going to get approved until the 18th.

Engineer Queenan: Correct. So, I suggest address the comments on the letter and submit your final narrative comparative analysis. We've done this 2 or 3 times. Where we get different answers on some issues. Because that would be incorporated into the resolution.

B.5 Walden Glen, LLC, Update

John Cappello: Last meeting, we were discussing the amendments to our site plan for the drainage, which in the previously approved plan was via the easement off site. It was now going to be accommodated fully on site. We had a set of comments from Mr. Queenan on the plan, but then it came

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up there was a question regarding the number of units and the *inaudible* requirements for the mobile home district and *inaudible* units were in the process of being displaced over this 15 year period. Whether they did an area variances or not. We are before the ZBA, both on appeal to determine whether our position is correct, that their preexisting or any alternative to request area variances to allow the project to proceed. The main issue before is ZBA after public hearing from an environmental perspective was the drainage issue, and some of the neighbors from Winding Brook did appear at the hearing and raised their concerns. So what we've been directed to do and I think correctly by the ZBA, is to come back before this board and have to complete the SEQR process and address the comments regarding the drainage in any other comments the board may have on the site plan, to then do the negative declaration on SEQR, hopefully to demonstrate that we would address those issues. Then we'll go back to ZBA and ask them to make a determination and then back here if the determination is favorable. We did meet at the site subsequent to the ZBA meeting with the representative and some members of the boards of Winding Brook. We received a comment letter from their independent engineering consultant that they hired. I hope to do in the next few days, a comprehensive package where we will address Mr. Queenan's comments, address the comments of the engineer for the Winding Brook Homeowners. Also include one of the issues they did raise, was asked for suggestions on screening behind the units that will be closest to the line of work sites. We will be evaluating the landscaping plan as well. I also will be submitting to Dean and Rob a plan that shows exactly where the units are and analysis of what is determined.

Dave Zeigler: We're preparing our plans to submit. *handed notes to board* Received comment letter from Winding Brook. This is where we're at now. Same plan looking at about 6 years, I guess. We have about 20 comments from them. When we make the submission for the next meeting, we're going to have the revisions that I have here in green. Then we'll have a comment response to all their comments.

Member Pearson: What was the gist of what their comments?

Dave Zeigler: Drainage and landscaping. Front page, block of green, that's the new bulk table. The second page is all new. That's the ZBA map. That's going to break down each unit with the yards. Set up a table for the variances.

John Cappello: If you look at the ball tables for mobile home park. This park existed. It is the only mobile home park in the Village. It's the only land zone mobile home park. But the bulk requirements that were adopted for the zone in which this existed. We would probably get about 8 units.

Chairman Plato: Any additional requirements with Department of Health?

John Cappello: Department of Health approval has been renewed every year. And the Department of Health has actually for 52 units. We're proposing 43. These units have been removed with the original approval for 77 units. Every year the health department has re-approved for 52. I just actually received the FOIL request from the health department that shows it's permitted for 52 and we're requesting 43.

Dave Zeigler: Drawing 4, you'll see a few green spots at the top. That's 4 additional catch basins we're going to have. So, along that property line with Winding Brook we're going to have 5 catch basins. We do want to build a berm because it is the backyard of the unit. At the bottom is a section from the condo. If you're standing in the condo, looking up to the top where the units are going to be. You can see what the owner wanted to do that. On the next page, we highlighted, you can see the 3 black spots along the back property line that's north. Then we put some catch basins on the curve. As you go in and you have a road to the left, we have the catch basin on that curve radius and on the next one, because the water was coming down the driveway, cutting across. They told us where they were having a problem and we changed that. Then on the last page, which is the landscaping. We're going to have a tree, a shed, a tree. We're staggering, the trees and the shed. Once they're into full growth, they'll cover pretty much from shed to shed. Those things will be on the new plan. The counter response to their engineer's report and an updated narrative. That's what we'll submit for the next Planning Board meeting.

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Member Pearson: Were the type of trees discussed?

Dave Zeigler: They wanted something to buffer. I call them lollipop trees, they're small trees that you can trim. The owner of this park does not want to have big trees. These little trees get lollipop sized and they're easy to trim.

John Cappello: We just discussed the generalities of providing some detail. We will provide them a copy of the submission. Hopefully we can then wrap it up and get it whatever final comments they have.

B.6 Truffa Seed, Site Plan Amendment

Howard Weedan: I'm here for Tom Olley. Being a Village resident and a business owner, after watching tonight. I would just like to say thank the board, after watching tonight, Thank you, for all that you do!
read letter from Tom Olley.

Engineer Queenan: It's very straightforward.

Building Inspector Stickles: Never had a complaint since they were first put up.

Member Pearson: Should make a referral to the County.

Building Inspector Stickles: I'll do that tomorrow.

Member Wilkins made a motion to declare lead agency as an unlisted type action. Seconded Member Pearson. All ayes. Motion carried.

C. **DISCUSSION ITEMS:**

D. **INFORMATION ITEMS:** None

E. **CORRESPONDENCE:** None

3. **COMMUNICATIONS:** None

4. **EXECUTIVE SESSION:** None

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

RESPECTFULLY SUBMITTED
Marisa Kraus, Planning Board Secretary
9:31pm