

Village of Walden
Planning Board Meeting
May 16, 2022

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| Chairman: | Stan Plato | Present |
| Members: | Jay Wilkins | Present |
| | Zac Pearson | Present |
| | John Thompson | Present |
| | Jennifer Muehlen | Present |
| | Basil Stewart | Present |
| | | Absent |
| Alternate Members: | Melissa Reda | Present |
| 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:

February 14, 2022, March 21, 2022

Member Wilkins made a motion to approve the February 14, 2022 and March 21, 2022 Minutes. Seconded by Member Pearson. All ayes. Motion carried.

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1 161 Millspaugh Court

Mike Linzio: Proposing a three-lot subdivision located at 161 Millspaugh Ct. It is located in the R3 zoning district. The lot is an existing 1.02 acres. Each lot proposing a four bedroom dwelling on each lot. Each building is proposed to be serviced by municipal water and sewer. We have them before the board think back in 2019. Already had a public hearing for this same project. We're back before the board because we had to go through a new application. Not quite sure exactly what the reason was for the application, but I digress.

Engineer Queenan: The original application expires. They never came in for any extensions.

Mike Linzio: Yes, during COVID we missed all the extensions and the approvals. During that time, they were waiting on health department approval. DPW approval. Waiting for the village to be able to sign the sewer application. Which the resolved for that ended up being that the proposed work will be counted as a sewer service, with any improvements being offered as dedication at a later time to the village. All site distances are met as required. The grading is shown. Everything meets as required. The sewer services, lot one will be serviced by gravity sewer service. On lots two and three, both proposed pump station from to come to the proposed manhole up the road, closer to Coldenham Rd. Water extension has also been proposed. Health Department approval has been required. We also have DPW approval at this time.

Chairman Plato: Robert, I was looking at this draft resolution, just to clarify, the sewer main, I thought that was private.

Attorney Dickover: It's being offered for dedication to the village, and it's going to be built to village specifications with the plan, ultimately, that the village would be cleared to enter this into the public sewer main. So, I left it in as a condition. I think it's appropriate. I did add something to the draft that you saw with respect to the offer dedication for the system and for the applicant to prepare and submit for our

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review a common use and maintenance agreement with respect to that facility until such time as it's accepted.

Mr. Grogan: 157 Millspaugh Ct. My question is also on these sewer maintenance. When I look at the prints, there are two force mains running up the road, one from each lot. I'm assuming is going to be private lines going up manhole or is that one single line that they're tied into?

Mike Linzio: They will be private lines that will be maintained by property owners.

Mr. Grogan: What opportunity do I have there? How does that cut me off or help me out to be able to run my sewer up that way? Do I have to run in the same trenches?

Mike Linzio: *referring to the map* Are you on the corner here?

Mr. Grogan: Yes. I'm actually at the end of the road. That's why I'm trying to get the opportunity. I do have water, but that goes up over the ridge behind the properties.

Engineer Queenan: The law is when it becomes available.

Chairman Plato: I think that's something we should definitely look at.

Engineer Queenan: It is possible. So, when this line does go in. You could apply to the village for the sewer service on a road opening permit. I would not recommend tying it in to another homeowner's. I don't think it affects the subdivision, but he can he can certainly come into the village any time and submit an application and be ready. I would suggest that if it's something that you're serious about, that I would provide an application to the village. And as this goes in process, they still have some time here. If there's an active application on file in the village, then prior to the start of construction here, I'm sure someone can wait *inaudible*

Member Wilkins made a motion to close public hearing. Seconded by Member Thompson. All ayes. Motion carried.

A.2 28 East Ave

Dusty Beach: There's a vacant plot behind our home and currently it's just one long rectangle and we'd like to purchase the southern roughly the southern half of it from our neighbor and change the lot line so it becomes part of our backyard. Then our neighbor would maintain the other half.

Patricia Scott: 30 East Ave. I live on the lot in front of the one they're going to purchase and I wanted to know what's going to be done with the lot behind my house?

Roxanne Beach: We don't have any building plans. If the village at some point would allow us to put a garage. The lot very steep, but it's overgrown and not maintained. If at some point in the future. There is no spot for a place for a garage for us. So, if at some point in the future we could, then that would be something we would ask the village. But the land back there is sloped there's not much that can be done with that other than maintaining it and increasing our backyard.

Member Wilkins: What's going to be done with the parcel that's landlocked?

Dusty Beach: That's not ours. Not been addressed on the survey. It's not for residential use at this time. It is zoned R4, but it's landlocked. So, it's not buildable and completely vacant right now.

Allen Kissinger: I live diagonally across from these people here. I was wondering if any of those things are being done and moved in a way of my house and my property affected by the construction work.

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Member Pearson: I don't think they're proposing any work.

Dusty Beach: Right now, this is all one piece of property and this is our house and our property, and we want to just change the lot line. So, it's just a map. There's no construction, no development. Everything stays the same. It won't effect you.

Member Muehlen made a motion to close public hearing. Seconded by Member Wilkins. All ayes. Motion carried.

B. FORMAL APPLICATIONS:

B. 1 161 Millspaugh Court, 3 Lot Subdivision

Attorney Dickover: The 239 referral letter was dated May 5 instead of April 28. So that'll be a correction. Public hearing comments, the draft said there were no comments received, now recite the number of the following address their concern about is the potential ability to tie into the sewer lines. At the time, the conditions under number five, they previously called for approval by the Orange County DPW, which I think is now been received. So that condition would compel the approval by the Orange County Department of Health. The water main extensions have also been received. So, number five would come out entirely as a condition. The sewer mains are the new one would read as follows *read conditions into minutes* I would add that is another no, I think the rest of them remain the same. They include supplying to the Planning Board Utility Service Claim Agreement pursuant to Village Code 260-6a6. A note with respect to the expiration of the approval. Unless performance bonds are posted for the sewer and water improvements as shown in the final plat. They are to prepare and deliver for review approval, acceptance, offers of dedication for the public improvements to the village and there is a note with respect to payments. Those would be the changes.

Member Pearson made a motion to approve the three-lot subdivision with changes as presented by resolution. Seconded by Member Wilkins. All ayes Motion carried.

B.2 28 East Ave, Minor Subdivision

Attorney Dickover: I'll highlight the terms of a proposed resolution which would improve the lot line change and mentioned the changes. This is an application for a lot line change. The village does not have a lot line change law so it becomes a subdivision application. This being a minor subdivision application. The board is Lead Agency as established on April 18th. This is a type 2 action. No further environmental review is required. A 239 referral was made to OC Dept of Planning Department by its letter of May five determined that this was a matter of local determination. Public hearing was noticed for this evening, it was open and closed. We had several comments from the public, but no general opposition was submitted with respect to the application. The conditions for the approval would be the six general conditions, one that the applicants to submit all necessary copies of the plans and mylars that they are to pay off each fee and otherwise prior to signing by the Chairperson. The Chair has to satisfy himself that all conditions of the subdivision is fulfilled. The approval expires six months from the date of the approval unless the conditions are completed within that time, unless an extension is applied for and granted by the board, no approval is made or intended for off premise improvements as depicted on the plan and the six general condition. No approval for the remaining parcel being part of lot 7.1 is made nor intended by this approval of subdivision for use of said parcel as a legal buildable lot due to the fact that said parcel is presently landlocked and will continue to be landlocked upon this approval. There is no building approval being given to the remainder of 7.1. The specific conditions for approval would be a total of perhaps ten. The applicant is to prepare and submit for acceptance in the form satisfactory planning board attorney of legal descriptions and new deeds to be recorded for the two lots affected by the lot line change hereby approved inclusive of joining that portion of tax maps 7.1 being joined to lot 14 to make that one lot. So, you're going to have new deeds drawn. One for your current property plus 7.1. One deed for that and a second deed for 7.1. To amend the subdivision map to include a note satisfactory context to the planning board engineer subjecting the lands of Beach to a blanket easement in favor of the Village of Walden for the purpose of entering said premises, for the purpose of access and egress to the existing drainage facility located on said property as depicted on the plans as it traverses the affected lot, as well as for

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access and egress to the rear parcel which is being added to the existing beach parcel for the same purposes. You'll recall a conversation from last month that you have a drainage facility running along northeast boundary of your property and that feeds or is fed by a drainage easement that traverse's lot 7.1 currently. You did give to us an easement in existence already that favors the village as it crosses lot 7.1, but it does not appear to continue on through or along your property. So, we're looking for the ability of the village to access the line as is on 7.1, which they have already, but they don't have the ability to get onto your property and service that line to go along with it. So, we're asking for a blanket easement from you to the village for those purposes.

Roxanne Beach: Is there is there any issue with the location of our current shed being that it is on that easement?

Attorney Dickover: I think the village would have to take the easement as you're giving it as in the current condition. That shed probably encroaches on the village's easement already with respect to 7.1. The easement hasn't been located on this survey precisely, but that shed may be sitting on what was already there as part of 7.1. It might be. But if you look at that, your shed is on 7.1. And the easement that the village has is on 7.1. So, you may be in violation of it already.

Roxanne Beach: So, my question was, you cannot have any kind of accessory structure on an easement?

Attorney Dickover: It would be, if the village knew about it, it would be prohibited. If you were to ask for permission, it would be denied.

Dusty Beach: We inherited the property with the shed in that location. We're happy to accommodate the village.

Attorney Dickover: Is it a permanent shed on a permanent foundation?

Dusty Beach: No. It's on gravel.

Attorney Dickover: I don't think that's a major issue. There is a note here with respect to a monetary contribution in lieu of park land. But it's not required here because there are no new lots actually being created. And then lastly, no approval was made nor intended for off premise improvements as depicted on the plans. And that is probably a repeat of that.

Member Wilkins made a motion to approve minor subdivision as presented in resolution. Seconded by Member Muehlen. All ayes. Motion carried.

B.3 39 Edmunds Lane, Site Plan/Subdivision

Chairman Plato: This is not a permitted use of the property?

Attorney Dickover: The use is permitted, but the user has to be a non for profit entity and my understanding is that it is not. Your code of provisions, says owner. Your Building Inspector has made a determination as he can in reading the code that if the circus were to be a lessee that would qualify for those purposes.

Mike Linzio: I believe since the last time the lot line has changed to this orange line here to allow for the proper frontage of the property to Edmunds Lane.

Engineer Queenan: They're doing a two-lot subdivision now. They're breaking off the rear lot, making close to a flag lot. Original design only provided 50 feet. The code requires I think 125-foot width so they had to make that wider. They've shown they're going to do a common driveway access agreement with the driveway. They have the frontage. They have it width.

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Attorney Dickover: Back on March 2nd, this application was tabled for 30 days on the lead agency and further engineering was required. Believe my notes aren't complete with respect to SEQR. Back on September of last year, the board determined this was a Type 1 action because it was adjacent to the park and it was tabled at that point because there is confusion as to how they were going to proceed. There were other applications for the same warehouse application, the circus application. I think there was a third one in there. So, I'm not exactly sure where the board is on lead agency issue.

Chairman Plato: My notes, I had, the next meeting we would adopt lead agency and that was March meeting.

Attorney Dickover: I think you did because the application wasn't complete.

Engineer Queenan: I think the question of profit versus nonprofit was how we last left off.

Attorney Dickover: Are there any other involved agencies on this other than the village?

Engineer Queenan: Yes.

Attorney Dickover: This is going to be an unlisted type action. The board this evening could declare its intent to be lead agency and circulate notice that.

Engineer Queenan: It's a type one because it's increasing the building square footage by more than 50%.

Attorney Dickover: You're talking about the warehouse.

Engineer Queenan: The board did this once I think back in 2021. The application at that point was just a warehouse. The circus had a separate application. Then they combined the applications with that subdivision. Then they created a subdivision. And I believe they've come to a resolution on profit vs nonprofit.

Attorney Dickover: In February, the application was for warehouse and subdivision. We're not sure we had the circus in front of us at that point. I think it should be redone.

Member Wilkins: Do you have a lease with the circus?

Mike Linzio: I believe so.

Member Wilkins made a motion to resolve its intent to be lead agency for subdivision, the warehouse and circus. Seconded by Member Thompson. All ayes. Motion carried.

B.4 19 Orchard St, Site Plan

Attorney Dickover: You have a memo from me, dated back on April 5. It's an application for site plan is special exception use permit of the back of that moment to allow retail and office on the first floor of the existing building, as well as a two bedroom apartment use on the second floor. Application appears to be complete. Property is at 19 Orchard Street, in the B3 zoning district. Presently used as a single family residence, and the project is, as I stated, to create a retail and office space on the first floor and two bedroom apartment on the second floor. Within the B3 zone, those uses are permitted. I don't know why the application includes one for a special exception use permit because the uses appear to be permitted. Dean, do you have a comment on why?

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Building Inspector Stickles: In past the zoning codes to put an apartment above first floor commercial wasn't in use. That has been taken out. Just for clarification, there already is a retail use on the first floor. He's looking to put an apartment on the second floor.

Attorney Dickover: So, there's an existing retail use on the first floor. The board can ignore that application for special exception use is permitted or it can be withdrawn by the applicant, it's not necessary. Apartments above retail is permitted in the zone. This application will require referral to the county planning department and 239 for SEQR purposes. The board could this evening declare your intent to be a lead agency, and you could type this action as type 2 action and no further environmental review would be required on account of that. This is a site plan application. Some of site planning elements can be waived at the discretion of the board. John will have some comments with respect to that. Public hearing is at the option of the planning board. At some point we may have a discussion of whether or not you want to, in fact, conduct a public hearing or not on this matter.

Engineer Queenan: Essentially, the applicant submitted survey. Should have a location map or applicant listed on there. Bulk table requirements should be listed for the zone. The applicant is proposing an addition to the rear. 12 by 16-foot addition. I believe it's for the second floor. It will be open on the first floor. That's why I really think the bulk table should be added on to make sure that there's no existing nonconforming as being made. Parking table should be provided on the plan. Just to demonstrate that you're in compliance with the code now that you have 2 separate uses. If you're proposing any signage that would be the time to list it on the site plan. Are you proposing any exterior changes besides the additions, lighting, driveway?

Property Owner: Most of the changes are the sign. Just like that.

Engineer Queenan: Should probably set aside area for refuse. There was also a floor plan that was submitted This plan should identify floors. The proposed uses and square footages. On this floor plan, appears to be an additional improvement back of the extension, I don't know what that is.

Property Owner: That's the steps from the first floor to go outside.

Engineer Queenan: Steps up or down?

Property Owner: Down.

Engineer Queenan: Have that labeled, it should be shown on the plan.

Member Wilkins: What kind of retail on the first floor?

Property Owner: We don't have any tenant right now.

Member Wilkins made a motion to adopt lead agency and list as a type 2 action. Seconded by Member Muehlen. All ayes.

B.5 OCT, Request for Extension

Allison Fausner: In connection with our extension request. You may also be aware we've been appearing before the Board of Trustees monthly in connection with this project providing updates all of our letters on file with them. I received your memorandum and reviewed it and have no comments. If the board is also aware of the zone code durational of periods. The first one is satisfaction of obtaining signature, we got that in November of 2021. That set forth a 180 day period to obtain building permits. So, we're requesting extension out of abundance of caution. But I also understand Anthony spoke with Inspector Stickles and there is a question whether an extension is required.

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Building Inspector Stickles: I am not an attorney. But they have an approved site plan. They have a signed site plan. They had 2 building permits. One issued for the new offices, which will remove the trailers from the site. They currently have a building permit issued for the berm fencing on the Winum side and fencing along the back.

Member Thompson: Which they haven't done anything.

Building Inspector Stickles: No, but they have the permit issued.

Member Thompson: They promised us that they were going to work on that as a good neighbor.

Allison Fausner: I am aware of that Orange County has been preparing the landscaping.

Member Thompson: I'm back there all the time. They haven't done anything. They've taken out the back fence, which was torn down into disrepair. Nothing on the Winum's side, which has been one of our main topics here of being a good neighbor.

Member Wilkins: When is the bidding?

Allison Fausner: The bidding hasn't commenced yet. They are focusing on fence and to your point, they have submitted deposits for a fence contractor. They are just waiting for the materials to come.

Member Thompson: And all the busses and other trailers and everything that are up against the Winum's side of the property have not been moved all. When do we anticipate that being moved?

Allison Fausner: Once final inspections are complete with major renovations which have been completed. Then they can remove those trailers.

Member Thompson: They can't move prior to that?

Allison Fausner: I think they're still utilizing the trailers.

Member Thompson: They're not using them.

Allison Fausner: Then I'll check in with them. The DOTs progress, we received comments from them late last year finally responds after a year of following up. They gave us initial reviews of our site plan and certain aspects we needed to amend. We did, we responded to those within a couple months, got it back to them and we're waiting on final comment from them. From there on out, we will need to obtain a highway work permit and then we can progress with the sewer and water work.

Building Inspector Stickles: Part of the conversation I had with Anthony, there are so many other things to be done on that site that they don't really, in my opinion, they don't need an extension of time just for DOT. Once again, that is your call.

Member Thompson: They don't need an extension.

Building Inspector Stickles: No, they've already gotten building permits and they're on the way to doing things. They're only waiting on DOT.

Allison Fausner: We had submitted this in January before the building permits were submitted and secure and so it's out of an abundance of caution over a period of weeks. If Inspector Stickles is making a determination on the record that can be recorded that we don't require an extension of the board.

Building Inspector Stickles: Once again, that's their call. But I don't think you need one.

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Chairman Plato: If they haven't started barely any work, I don't think it should be granted.

Allison Fausner: Well, they have commenced work of the internal office work renovations.

Chairman Plato: That's a minor part of the project. My position would be not to grant the extension.

Engineer Queenan: What extension are you asking the board to consider?

Allison Fausner: When we initially applied, it was for an extension for the second durational period. Only out of an abundance of caution if the board believes that there needs to be an exception.

Member Pearson: Dean, the authority lies with you. They're taking their site plan, they're construction and building permits and they're working towards a final conclusion.

Member Thompson: Is there a time frame?

Building Inspector Stickles: It doesn't tell you what is going to be done first. It just says site approved. So, they were constructing the offices. So that they could remove the trailers. Now they've come in with the berm to fencing the plantings and the fence along the back that they're going to start to do. They have all of those busses and trailers to be removed before that berm is even started to be constructed. They have a lot of work to do to get that going. They have three months on my permit. If they don't, the permit expires and they have to start over.

Chairman Plato: Extension not required.

B.6 Overlook at Kidd Farm Bills

Member Thompson made a motion to approve Overlook at Kidd Farm bills. Seconded by Member Pearson. All ayes.

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

8:47pm