

Village of Walden
Zoning Board of Appeals Meeting
August 24, 2022

Chairwoman:	Brenda Adams	Present
Members:	Christine Scieurca	Absent
	Mary Ellen Matise	Present
	William Sestrom	Present
	Scott Barilli	Present
Alternate Members:		Present
Code Enforcement:	Michael Friedman	Present
Village Attorney:	Robert Dickover	Present
Secretary:	Marisa Kraus	Present

Chairwoman Adams - Called the Zoning Board meeting to order at 6:30pm with the Pledge of Allegiance.

1. APPROVAL OF MINUTES:

July 27, 2022

Member Sestrom made a motion to approve the July 27, 2022 minutes with changes. Seconded by Member Barilli. All ayes. Motion carried.

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1 8 Linden Dr

Nelson Gonzales: The letter that you just read, says that I'm trying to build a driveway in the front yard. That is not true. I did ask for a permit and they never allowed me to explain what I was trying to do. I own the house and my driveway is downhill. I cannot use my driveway at all. I have to fix my vehicle. Last February, the snow had melted and went into my garage. I didn't know anything about that. I noticed right away I couldn't use my driveway. I can't park in the street, so I started parking on the side of my house in the grass. Then my car started sinking. I couldn't get out most of the time. This is a safety issue. This is not really doing a driveway or anything else. I'm a senior citizen. I love this community. But I cannot use my driveway. All I ask is to let me park my car on the side, using my own driveway to come in. I'm not building a driveway on the side of the house. I'm using my own driveway.

Chairwoman Adams: Are you taking your driveway out, the part that you're not using?

Nelson Gonzales: I was hoping that the Building Department would give me the permit to put asphalt on the side of my house so I could park there. That was like 3-4 months ago, a number of calls to the Building Department. They wouldn't let me explain what I was trying to do. This is a safety issue. I'm an elderly man. I cannot use my driveway. I cannot even open the door.

Chairwoman Adams: How much footage do you have in between the right side of your driveway and the neighbors?

Nelson Gonzales: I have a neighbor that helped me measure it and he knows the specifications, can I call him?

Chairwoman Adams: Do you have a survey map or anything with you? There's nothing in the file. Because we have to know how close you're going to your neighbor.

Nelson Gonzales: I'm not close to my neighbor at all.

Member Sestrom: How many feet from the edge of the proposed driveway?

Nelson Gonzales: I didn't bring the specifications.

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Member Matisse: He has a 75 foot lot.

Nelson Gonzales: The driveway, I cannot park there in the winter time at all. When it's icy, snow. I have no parking. I cannot go down the hill with my car.

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

Conrad Flickenschild: I've lived next door to this house for 55 years. I've known everything that everybody that resided in that house prior to Mr. Gonzales. He has a driveway that is so steep when it goes down he couldn't get his car in the garage because the way the driveway was constructed. So, he hasn't been able to use it. The driveway that he's trying to place in front of the house is to the right of the present driveway. I believe you have the measurements in that little map, the dimensions and everything and how far over he wants to go.

Chairwoman Adams: The question is, how far is it from the property line?

Conrad Flickenschild: Is that listed on that map?

Chairwoman Adams: That's why we're asking the question.

Conrad Flickenschild: I would say it's about 6 foot from the telephone pole. And if you look at the actual picture, the telephone pole I believe is his border. This gentleman has done more in the 6 months that he's lived in that house than anybody that previously resided there. He's not asking for anything that you couldn't drive through the village and find many, many homes that have the same thing. I have absolutely no problem with what he's asking to do. I don't think any of the neighbors are objectionable either.

Suzanne Rougier: I have lived in the village for over 30 years. Mr. Gonzales and I are friendly. What he is asking to do is pure safety reasons. The parking spot is going to be connected to the driveway he already has just for his own personal vehicle. He is not looking to do 3 parking spaces. It's more for safety. When you get out of your car, to the left, I don't know how I could make it up the driveway to his front door without somehow slipping and sliding. If I look around our neighborhood. There are more than one driveway that allows more than one car next to each other. If he were to park on the street. I mean, he is already parking on the grass for safety reasons during snow. That's the exact same slot he would want to put his car. But to make it look nice and paved safe. And if he needed someone to come to him for assistance he can do that as well. Like Mr. Flickenschild, I have lived there long enough to know that he has made dramatic improvements to the home. I am so proud to live in Walden. It will only improve the value of his home as well as the rest of us. I think that if he were to sell the property in the future that would become an issue. He would have to fix the driveway with the driveway. The runoff from the snow going into his garage. I don't think what he is asking to do is out of the ordinary. If anything it's going to improve. My husband and I certainly do not have any objection to that. We love our neighborhood. It may also save the village some time. The water meter guy, electric guy.

Joan Romaine: I am a Walden native. I can say that Mr. Flickenschild is highly respected as leader in our community. I've only known Mr. Gonzales for a short period of time. *inaudible* In the process of overseeing her property, I've gotten to know Mr. Gonzales and found him to be a very humble and kind man and an asset to the community. I can also confirm My Flickenschild testimony to the improvements, substantial aesthetic end, just good health improvements that Mr. Gonzales has done to the home. It's remarkable. Inside-out. He's removed dead trees. The driveway issue is not only a safety issue, in my opinion. Based on everything else that he's done in terms of everything else that he's done. It also brings it up to everyday life here. Most families have more than one car here. I think in terms of investment in property he may only need 1 car now, in terms of modernizing that home and that property, it's a smart thing to do. I'm just here to fully support him. The driveway is to the right of the property on his property.

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Nick Iacovitti: I met him when he moved in. What he's done with his home is absolutely fabulous. The improvements he's made, unbelievable. He's really put in a lot of time and effort. The home looks absolutely beautiful. I know Mr. Petrillo that lived there before. Barry never used the driveway. If he did, he went down for about 2 feet. He couldn't go down that. He's going to have to go on the driveway. He'll have to enter the driveway and then make a quick right to go where he wants to go to that addition that he wants to put in. People park on the grass and I think that's a safety issue. I would rather see where he has the gravel and pave it. It would be a lot safer than just parking on grass. I spoke to Jason, his neighbor to the right and he has no problem whatsoever. He is a wonderful, wonderful musician who's played this way, made many famous people. He adds culture to the area. He's just a warm addition to the neighborhood. For this little thing that he wants to do, I think it's a matter of safety for him and the community. I support his actions.

Angel Bonilla: I have known Mr. Gonzales for quite a few months. As those have spoken prior to me coming up here to the podium. I totally agree with what he has done with his home, he has vastly improved it from the outside and the interior. I do not oppose what he is trying to do as far as the structure that he's trying to pretty much pave along his driveway. I totally support it and that's pretty much it. I just want to support him and what he's trying to do.

Chairwoman Adams: The garage, you say that water will run down into the garage. What happens to the garage?

Nelson Gonzales: Most of the time it fills with water. I had to spend money to remove part of the old pipe and put a new one. Apparently that was a swamp.

Chairwoman Adams: It was brought up, the water is a safety issue for the garage and I'm not sure how you're going to alleviate that part of it. Still going to be water running into your garage.

Nelson Gonzales: I'll have to build some kind of drain to take the water away.

Chairwoman Adams: The people going down to read the water meter and the electric meter. They're still going to have to go down there and do that regardless of what happens. Correct? So the safety issue for them.

Nelson Gonzales: It's a safety issue for me.

Member Barilli: According to this picture, the electric meter is on the side of the house. So, that won't be an issue.

Nelson Gonzales: I think this problem should have been corrected many years ago. I went around the neighborhood. I'm not doing anything anyone else also hasn't already done. I have addresses and pictures. Why do I have to come here when everybody else has done it? My house is the only one.

Chairwoman Adams: I can't answer that. Bill, do you have any more questions?

Member Sestrom: Are you going to pave just the driveway or the driveway and the new driveway?

Nelson Gonzales: I have no use paving the driveway. I will pave the place where I'm parking in the winter time. And then I'm going to check to see in the winter time how much water I'm getting. If I have to then get rid of my driveway. I have very expensive guitars. One on one of them is a Paul Simon guitar. Somebody told me that I have to put the guitars above the ground because God forbid you get flooded, those guitars are gone. I didn't think of it because I didn't know. I just moved here 6 months ago.

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Chairwoman Adams: Yes, that's sort of a separate issue from what you're asking. Mary Ellen do you have any questions?

Member Matise: Dean interpreted this under 305-13.1. What makes that different from 305-13 a4?

Code Enforcement Officer Friedman: If I had the code book in front of me.

Member Matise: Look it up on your phone.

Code Enforcement Officer Friedman: You will have to give me some time.

Member Matise: I don't see why he went to 13b when 13a is for full *inaudible* use. It's only parking. It's an access area. It's an access driveway can be located in a required *inaudible*. I want to know why we're wasting this man's time. I'm waiting for an answer. That's our code.

Member Sestrom: You know the code.

Member Matise: Everyone can know the code. It's online.

Member Sestrom: I drove through the whole neighborhood and he was right. There are multiple homes, same situation.

Member Matise: Sure. I want to know why.

Attorney Dickover: Let me make it simple for you. If you read a4, talks about a driveway. It doesn't talk about off street parking areas, which is it is aimed at. The accessory off street area should not be placed within required front yard. Talked about off street areas being off street. If you think about it, everybody who's allowed a driveway in your front yard. And you can have a driveway in your required front yard. Makes perfect sense. Most people do it. They are different. Off street parking areas and off street driveways are different.

Member Matise: We have definitions for access for off street?

Attorney Dickover: I can comment on that later. I'm not going to do that tonight in the middle of a meeting.

Conrad Flickenschild: 55 years ago, when they built the homes there. We all received a certificate of occupancy to allow us to reside in our home. That home flooded numerous times. I even had to bring the ladies, the first owners, I had to bring their furnace to my father to dry out because they had that much water in it. So the village gave us a certificate of occupancy. Never even looking at the driveway. And that driveway has flooded continually. And as many times as I have had, the Village Manager up to my house right next door for similar problems. I don't ever recall the Village Manager being called to see the problem he has. It is a safety issue and the driveway is not conducive to the little house is. Thank you.

Suzanne Rougier: I think that when we look at the situation, what I think is important for the Village of Walden to look at is that not only is Mr. Gonzales, if he were to get what he is asking for, but he is willing to put in the money to correct the situation. He is willing to invest to make it safe.

Chairwoman Adams: We will take that under advisement. But you do remember when you were on the Zoning Board and we have certain criteria that's put out by the state, so we have to justify each of those criteria in order to make a variance change. We have to get all the facts together. Obviously, he's a very nice man and everybody likes him but we have to get all the facts together to override the Village Code to be able to make it legal.

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Suzanne Rougier: I do understand. I do also remember. Thank you for your time.

Joan Romaine: Climate change is real. We all know that. We're having more worse weather. It's important that this is approved as expeditiously as possible before more rain, more winter storms more dangerous present's problems for Mr. Gonzalez. As others have said he went through all the right channels. He did all the right things. And yet he was not given the opportunity to do this through the correct route. And that's a real disservice. As a Walden native, it's very disheartening for me to hear that and how he was treated by the Building Inspector. My mother was born and raised in Walden. I was born and raised in Walden. I have very strong roots to this area. I think we need to also be mindful of that and in terms of the water damage and all that. Obviously, those are public health implications. Hopefully you can work as quickly as possible to help Mr. Gonzales.

Member Barilli made a motion to close public hearing. Seconded by Member Sestrom. All ayes. Motion carried.

A.2 95 Walnut Street

Thomas Reed: I was the caretaker of that home for a couple of missionaries for 40 plus years. When they fell ill and of course, passed away. Juan rented the property for a while, and then he purchased it. Since then he's made drastic improvements to it. One of them is in the backyard. Several trees that were rotten, he took them down and now he's kind of gobbling up the place and he's doing a fabulous job with hardscaping. What we would like to do is add a 6 foot fence to that not only to keep his dog from jumping over a 3 foot fence. Which will be allowed, but he would fall that additional 3 feet injuring himself. Plus for privacy. We have pictures of neighbors in the same situation. They have a retaining wall with a 6 foot fence. I've seen quite often in the Town of Newburgh, Meadow Hill. Just asking for that 6 foot fence. Actually 34 inches worth of hardscaping. We're asking to put a 6 foot fence on 34 inches of hardscaping. There's a slope in the property so that number will diminish. The overall back property will be at nine foot, but as you get closer to the house, it'll be it will return to 6 foot.

Member Matise: On your application it doesn't say whether you're just putting it on the rear or all the way around.

Thomas Reed: It's going to be all the way around. There used to be an old stockade fence there. It wasn't on the property. It was a foot over the property. We made all those readjustments by getting a survey. Once we did the survey, we adjusted everything and now we're within the property lines of the hardscape.

Chairwoman Adams: Those pictures are of the property that is being requested? Not the neighbors that have the same situation.

Thomas Reed: Correct. You see the one neighbor, probably 10 feet off the back of the house, but he has a rock wall. Which is several feet off the ground. Then a 6 foot stockade fence.

Chairwoman Adams: If I'm reading this survey correctly, there's 3 foot from the retaining wall to the boundary?

Thomas Reed: Yes.

Chairwoman Adams: Facing the house on the left side there's also extra space.

Thomas Reed: Yes.

Chairwoman Adams: It appears that the retaining walls built right on the property line on the right hand side.

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Thomas Reed: Yes.

Chairwoman Adams: I think the part that's confusing me that you put a retaining wall in but you didn't fill it in. Instead of taking this property that might be sloped and leveling out the ground, you created a new base that you want us to consider as the ground of the property. Do I understand that correctly?

Thomas Reed: This was all planned out before.

Code Enforcement Officer Friedman: He didn't fill out a permit for the retaining wall because it was under 3 foot. The permit that we have on file was for the deck on the backside of the house. The retaining wall was also added onto to pretty much to see where it was supposed to be along the property line. 3 foot in from the property line.

Chairwoman Adams: Did the retaining wall retaining wall get made to 2 foot 7?

Code Enforcement Officer Friedman: That was never part of the permit.

Chairwoman Adams: I have a letter that Dean sent on Sept 21, 2021. *read part of the letter* Now the patio is done. Did you ever get that drainage information to the Building Inspector?

Code Enforcement Officer Friedman: I don't believe it's a concrete patio. It was pavers.

Chairwoman Adams: So, the original request was altered?

Code Enforcement Officer Friedman: I believe so.

Thomas Reed: I can't answer that.

Member Matise: The rear wall is 3 foot in from of the property line. But those trees, look like they're within that 3 foot. These trees are not your trees.

Thomas Reed: On the survey, does it show any trees? It might be that those trees are on that property line.

Member Matise: I guess one of them is.

Thomas Reed: That's probably the reason why it has been setback a little bit. To avoid taking those trees down.

Member Matise: The concern I have with putting up a 6 foot fence is getting back there on the 3 foot that has nothing on it and taking care of leaves in the winter and fall and just doing some general maintenance behind there on that on that wall. When you don't see it, you don't do it.

Thomas Reed: He did take down two huge monster trees. There was a fence there for 20 plus years.

Chairwoman Adams: What kind of fence was taken down?

Thomas Reed: Stockade, 6 foot.

Chairwoman Adams: I have a problem with adding a 6 foot fence on top of the retaining wall. Because that become a 9 foot fence. 8.7. That's a huge fence. It's almost like a fortress. The reason you need that much or you want that extra is because you filled it around the bottom. And I'm not sure that I understand why you did that.

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Member Sestrom: The retaining wall creates new land is it possible or is it a good or bad idea *inaudible* patio?

Attorney Dickover: The Building Inspectors determined by his denial of this application that the fence measurement includes the wall.

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

John Thompson: I live behind the applicant here on the corner lot. I am not going to dispute the stone work that's going on back there. It is amazing. It looks great. However, I do have a number of concerns with the drainage. I know they're paving stones. They're still going to alter the water. I don't even know what a 9 foot fence looks like. This thing is going to be mammoth and I'm going to get to look at it. I don't know what that's even going to look like on top of a 3 foot and when you put the capping stone on top of the more than 3 foot. So, it's over 9 feet when you put the 6 foot fence on top of that. The other part of that Mary Ellen brought up is the 3 foot behind, where you got that monstrosity of a tree there. That section of property has never been taken care of all that well to begin with. I don't see that changing. When you put the new fence up, out of sight, out of mind. I'm more concerned about what the property is going to look like, how the leaves are going to blow all over. And I don't think you need a 6 foot fence to control a 5 lb dog. I'm just saying, which was part of the argument that they needed this big fence to hold a little dog. That was just some of my concerns. I think that kind of fence at 6 foot is going to take away from the neighborhood. We have stockade fences, the wooden ones that aren't being taken care of already. And now we're going to have another 6 foot fence. Right in the yard, just takes away from being a nice neighborhood that it is. I feel bad for not wanting the 6 foot fence because what he's doing looks nice.

Lynn Thompson: I also live in the home behind. I agree that this gentleman has done a very nice job with the stonework that he's had back there, that yard was a hot mess. I understand why he wanted to level it out. That being said, I am getting the sense that had this entire project been presented to the Building Inspector in its entirety, we would not be here this evening. I am totally convinced the Building Inspector would not have gone against the code, which is what the issue is. I feel like part of the problem is because this gentleman did not have the foresight or the knowledge to know what the implications were going to be putting up a fence that tall on top of already very tall wall. I'd like to know what type of fence he's putting up. If it's a stockade or one of those solid, vinyl fences. I also have concerns what this is going to look like for the rest of the neighborhood. As far as the other neighbor who decided that they think that fence is taller than 6 feet. I don't think it's fair to comment on that because I don't know if that person had a permit or they put that up, violated the code. No idea. I'm a little confused about where the previous stockade fence was. I've lived at my house for 38 years and I don't recall a problematic stockade fence. What I do recall is on the property line, which I don't even know if it was on my property or right on the line, the neighbor behind me had put up a stockade enclosure where he stored wood and all different things. He has since taken that down. I know my neighbor behind me has a stockade fence on the side between his house and this gentleman's house, I believe he moved that over within the last 2 weekends, because there was a question about whose survey was correct. This gentleman can probably attest better than I can. But I feel like this is really going to be a very unpleasant sight for those of us that live behind. And again, I just the sense that this project in its entirety was not presented to the Building Department and now we have a problem.

Chairwoman Adams: I believe they said they are going to put up a stockade fence.

Thomas Reed: PVC.

Lynn Thompson: At least it will be maintained better because my husband is right, the stockade fences in the surrounding property are horribly maintained, which I know is not your issue and will not be

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considered with this gentleman's issue. I just feel like this should have all been laid out from the very beginning with the permits and this plan for this massive yard renovation with the Building Department.

Thomas Reed: If I haven't seen in New Windsor, Town of Newburgh, commercial properties and a residential properties.

Chairwoman Adams: I don't think it looks bad. We're talking about the height.

Member Sestrom made a motion to close the public hearing. Seconded by Member Barilli. All ayes. Motion carried.

A.3 Walden Glen, LLC

John Cappello: I just want to give the board an update on where we've been since our last submission. As the board requested, we went back to the Planning Board to address the drainage issue. We met with the neighbors out on the site, to hear their concerns with their engineering consultants, as well. One of the HOA representatives is here this evening. The revised went addressed with their comments. We submitted it to Planning Board's Engineer. The Planning Board Engineer reviewed, came back with some comments and we revised it again. I have Ryan Nasher, here with me. Ryan is the engineer working on the project. Based upon the presentations that the June 20th meeting, the engineer for the Village met with the applicant's engineer, went over my comments as well as the comments that were provided from the Winding Brook HOA. He did a resubmission last week addressing those comments. At this point I'm fairly satisfied that he's checked all the boxes. We still have some technical issues to work out. Still have a public hearing. Based upon that had a motion to grant a negative declaration which was seconded by Member Pearson and unanimously a negative declaration under SEQR was adopted by the Planning Board that addressed the storm water retention, addressed the issues of aesthetic and all other SEQR issues. This confirmed what that board had adopted back in 2008 and therefore directed to come back from here. I apologize that I wasn't able to make the last meeting. We did submit on July 21st, your attorney, Mr. Dickover, who was kind enough to provide us with the memo, with the remaining questions he had. We made a submission on July 21st to the board addressing, we believe, those issues as it relates to the interpretation provided in the long history regarding this provision that's existed as the Old Orchard Mobile Home from back in the 1970s. We reiterated the non-conforming use that provision cited by the Building Inspector in his presentation could not apply to this because it is a conforming use and it is the only property within the entire village that is zoned for mobile home park. By definition, mobile home parks are mobile. So units coming in and out. But none of the units proposed in the site plan that was previously approved by the Planning Board in the Neg Dec issued are any closer than they have ever been. And my proposal now is for 43 double wide units as was, which is less than was even approved back in 2007. That is all set forth and in detail for the board with the law cited from New York regarding the difference between non-conforming uses and non-conforming bulk requirements, as well as law from other states acknowledging that mobile home parks by definition are mobile, so they are not static. Your Building Inspector has confirmed that the water and sewer hookups have always been there and are still there. But there was never any intent to abandon this. The applicant has been pursuing this. The applicant is licensed as late as February '22 by the Health Department for 53 units, which license has been continuously re-granted, demonstrating that there is a right to at least 53 units. So, that's the presentation as to the interpretation. If the board determines that they don't agree with it. Hopefully make your life a little easier by going through all the criteria associated with the granting of the variance. It was in the original addendum. We updated it in the July 21st submission stating that there would be no undesirable change in the character because this would actually be an upgrade and an improvement to the site. I believe I did submit some emails from some of the existing tenants saying that they're anxious for these upgrades and improvements to be made for the site. The Planning Board has done a full review which is demonstrated that SEQR review and it is consistent that it would actually be an upgrade replacing single wide units with the double wide units. As far as any method feasible to achieve. We gave you a map which the July 21st submission. I colored in the various different existing zoning regulations that precluded the area that would be permitted to zone based upon the distance between the property lines and the other special requirements. So, every area on this map that is shaded would be areas that

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we wouldn't be able to build, which would have a yield in the only property that is zoned for mobile home park in this village of approximately 5 to 7 units, which would not just not only not meet the applicant's requirements, it would not be financially feasible to have a mobile home park any more in Walden in the last mobile home park that exists. And the only one permitted would cease to exist if we had to comply with the regulations as they have been.

Member Matisse: This colored map is different from the original map?

John Cappello: No, the colored map demonstrates what we could do with the areas under the existing zoning that will be no building areas because one of the things is to present that there is no feasible alternative to pursue other than the area variance. The areas in yellow are the mobile home setbacks that are mobile homes. The areas in blue are the distance that the units have to be away from interior roads. None of the blue or yellow areas could be built in. That would show that you would only have to install approximately five new units in those white areas.

Member Matisse: Dean's interpretation deals with the yellow area, doesn't it?

John Cappello: No. It deals with we do not meet the current code as far as it relates to setbacks and those are all the different setbacks and we also provided a table going through each one of the variances that we would request.

Member Matisse: You're requesting variances for the interior setbacks and internal private roads?

John Cappello: Yes.

Member Matisse: I thought the interpretation was just dealing with the setbacks from the perimeter line.

Attorney Dickover: I don't have this letter here in front of me, but my recollection is that there was a setback issue with respect to the property along the condominium area, as well as the internal setbacks from the internal roads and the separation requirement. So, yes, both really it's an outside perimeter setback and some internal road setbacks. I think Mr. Capello describes what this application entails. First of all, an interpretation or if you'd rather just go to the area variances, I think they've now been itemized on a table on this map. They're laid out for you, you don't need to identify them any longer. If you think it gets you to the end of this faster, maybe you just want to deal with the area variances and see where you can get with respect to the 5 factor analysis with respect to them.

Member Matisse: But that is if we're upholding Dean's interpretation.

Attorney Dickover: You can you can deal with it either way. The first request is for an interpretation. If you can't or you don't want to wrestle with that issue tonight, you could go through the variance application, which is in the alternative. You come up with a decision that you think you're going to grant the variances then you wouldn't need to get to the interpretation question.

Chairwoman Adams: I think that the area variance would be better because it's more defined. This sets the rules for what can fit and not fit versus trying to do the interpretation. It becomes muddy. Your position was that this is a bulk thing, we should just look at it as a mobile home park.

John Cappello: We were non-conforming as to the bulk regulations. And therefore, under that, as long as you don't increase the non-conformity, you are allowed to continue. So our position is we are not moving any of the units any closer to any of the property lines. If the board wants to grant the interpretation, I believe there is ample support for granting that. If the board says for certainty, they want us to grant the area variances so everyone knows where they are set on saying we are willing to accept that.

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Member Matisse: Are these the same or different?

John Cappello: I don't know which one you're holding is all the same or different. There were some prior maps submitted as exhibits to show the history on where the lots were located.

Ryan Nasher: The plan that you should look at is in July '19.

John Cappello: Those are those were exhibits to the submission to show the history and were attached to show the existing conditions as they exist now. But I just want to go through the last 3. Went through the method feasible and then on the substantiality. I mean you could say if you look at the list that it looks substantial, but once again get a history context that there have been historically 73 units, that this is licensed by the health department for 53 units, that the applicant has been continuously before the Planning Board and working with the neighbors to accomplish these improvements since 2007. That in that context is not necessarily substantial. Then number 4 would have an adverse impact on the physical environment. I would relate back to the Planning Board has approved this site plan in 2007 for more units than just recently did a negative declaration. The amendments holding as lead agency that there were no adverse impacts that have not been addressed by the project design. Self-created, once again, this lot was adopted after the mobile home park was established. So it's not self-created because the units were established in there and then the law was changed. I believe that would mean that hardship in replacing these units was not self-created. As a matter of fact it just came up in 2022 after years of being 4 different Village Boards to get the property added to this zoning district to go before the Planning Board for site planning approval. Ryan can run you through the actual plan. Did have the updated drainage, we did beef up the landscaping. The neighbors are here and their engineer has been reviewing it. I imagine there what be some tweaking of that to address any specific comments that they may have and the landscaping plan was beefed up to put more landscaping at the property line at Winding Brook.

Member Matisse: That was done for the Winding Brook homeowners?

John Cappello: Yes. To respond to their concerns. There still will be a public hearing at the Planning Board. So if they have particular about different species.

Member Matisse: I don't know which layout you're talking about. I have September of 2021.

Attorney Dickover: What's the last revision date on what you're referring to?

Ryan Nasher: July 19, 22.

Chairwoman Adams: You just mentioned that they were all going to go double wide.

John Cappello: All of the new ones will be double wide. There are existing, I believe 7 or 5 single wide.

Chairwoman Adams: I want to mention that OC Planning Department did send back the 239 referral and they do not make a comment on zoning interpretation and said its local determination. Is there going to be a Superintendent on site?

John Cappello: They have a managing agent and they have one in Walkill and one in Walden. I will provide the answer and I was on vacation last month, Jim and Bill are on vacation this month. But I don't know if there will be someone 24/7 in Walden, but they do have someone local who maintains both the Middletown and Walden facilities.

Archie Morris: I'm a resident at 65 Winding Brook Drive and also the President of the Winding Brook HOA. I'm speaking for myself and the residents and the HOA. Based on conversations that I've had with residents, kind of the units that about the Walden Glen property. None of them were opposed to the plan as long as these *referring to the map* distances that we were told hold true. I'm not sure what those

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distances are at the moment. Out of the 9 residents I spoke with, myself included in that, there wasn't any opposition to the orientation or the distances as long as they were remaining true and not closer than what we were told. Only 1 resident had an issue, and I don't believe what they had to say is relevant. They just were negative.

Member Barilli: According to what his says here, pads 1-5, closest one is 27.5 feet. All the way up to like 31 feet. I think that once it's stated, this is the area, it holds. Is that correct?

John Cappello: Yes. If you grant the variances based upon that list, those will be the setbacks. If you were to grant the interpretation, I would say on public record and at the Planning Board that this would be the plan we would submit that we keep to those distances.

Member Barilli: Which should be the same.

John Cappello: Yes. This is the site plan. We're asking the Planning Board to approve that we'll get authorization to build.

Chairwoman Adams: Could I reconfirm. These buildings 1-5, the way we have the setback proposed, this is the way it has to be. There's not going to be any changes.

Archie Morris: The HOA also does not have an issue with the proposed plan as long as those distances stay the same.

Member Sestrom: We saw a letter from your engineer that said that these guys have to do several tasks that have to be changed.

Archie Morris: Yes.

Member Sestrom: Have you done those tasks?

John Cappello: We submitted those both to the HOA engineer, but we also submitted them to your Planning Board's engineer. That's what I read. He reviewed them and he said while he had some tweaks to them and their engineer may have some tweaks that the substance was satisfactory enough to for them to do a neg dec. But the final actual changes, inches or sizing, those final details will be worked out.

Chairwoman Adams: Can you state here on record that you responded to all of the concerns in their letter.

John Cappello: We provided a response to all of those satisfactory to the Planning Board's engineer.

Archie Morris: He's saying that he responded. I'm not going to say that we agreed because I'm not an engineer. I'm just representative of the HOA. The engineer will agree or disagree.

Ryan Nasher: I personally met with John Queenan. We sat down and he has the mark up, all the changes. Before the meeting today, I spoke to their office. They are happy with the changes and they have no objection. We have done this substantial changes to the plan and we sat down with them, which is really by the property line there, all the drainage over there, we did changes. Also, the comment from CT Male Associates, that was hired by the HOA. We took all of the comments, we had resolved them. We are here to be helpful.

John Cappello: Just to make everything crystal clear. We submitted responses to everything. Gave it to CT Male. Went through it with John Queenan. John Queenan was okay and addressed conceptually. CT Male said maybe they have some detail comments that they say they still want addressed. I don't want to say they won't have those addressed.

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Archie Morris: Just to finalize, the HOA doesn't oppose their variance and I would say the majority of the residents right along that property line also are fine with it as long as it is that.

Member Matisse: The sheds, as I recall have to be a certain distance from the mobile home.

John Cappello: The sheds can be 5 feet from the property line.

Member Matisse: The setback refers to where the mobile home unit is on the lot in relation to the property line. I just want address the property lines first. Not so much the interior lines. That means that they can use this space?

Ryan Nasher: Yes. It's really the concern from the HOA, the drainage coming from the property. We protected them with the swale and storm water will be collected by the catch basin.

Member Matisse: In terms of the mobile home park, conditions of how that space up to that fence is being used.

John Cappello: For the area for the drainage, is grass area, you won't be able to build any structures there.

Member Matisse: Can somebody have an extra car and park it back there?

John Cappello: There will be designated parking area.

Ryan Nasher: The way it is, we have the approved site plan. The owner will only be allowed to build what is in the plan.

John Cappello: There is going to be a drainage structure down there. People would not be able to put structures or a barbecue in that area. And if the board wants it as a condition that within that 20 foot setback from Winding Brook that the Planning Board posed as part of the special permit that there's no structure, that's fine.

Member Matisse: But you already placed a shed there.

John Cappello: An accessory use gets to go there. If I had a 100 foot setback, I could walk to my property. You're looking at practicality. I'm talking about in practicality of what people do.

Ryan Nasher: I want to make it very simple. We are not proposing any variances for 1-5.

Member Matisse: If the variance is to go ahead and allow this use within that feet, then I would think that *inaudible* sheds that close to the property line. They're closer to all these other units.

Ryan Nasher: I do drainage for a living. You have a swale. So you don't want to put a shed on the swale.

John Cappello: Can we ask if you put a condition that the sheds will be will be moved as far away from the property line, as practical as determined by the Planning Board as we go through. I don't want to tell you, absolutely, we can move everyone and turns out some we can't. I would say if you have a condition, once again on those 5 that say we will move their sheds as far away from the property line as practical.

Member Sestrom: That's reasonable.

B. FORMAL APPLICATIONS:
B. 1 8 Linden Dr, Area Variance

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Member Matisse made a motion to declare lead agency and list it as type 2 action. Seconded by Member Sestrom. All ayes. Motion carried.

The Board reviewed aloud the 5 factors associated with an Area Variance:

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 Adams 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 Adams spoke for all by answering no.

c. Is the requested area variance substantial?

Chairwoman Adams spoke for all by answering no.

Member Matisse: I have a concern about future homeowner parking a boat or an RV or something large. Maybe something we can put in a condition.

Attorney Dickover: I think that's a reasonable condition. I'm not sure exactly what you have in mind. Something along the lines of only for passenger vehicles. Not allowing commercial vehicles and trailers, things of that nature.

Chairwoman Adams: Also he wants to come in and make a right hand turn to park and let the rest of the driveway go. In the future, someone could use the whole driveway, plus that area.

Attorney Dickover: So, you're suggesting conditions something along the lines the area used for passenger vehicles only and one commercial vehicle for occupant of premises or for temporary visitation purposes?

Member Barilli: Sounds perfect.

d. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Chairwoman Adams spoke for all by answering no.

e. Was the alleged difficulty self-created?

Chairwoman Adams spoke for all by answering no.

Member Matisse made a motion to direct council to prepare a written resolution consistent with the board's findings of this evening which would grant the variance that's been requested. Seconded by Member Barilli. All ayes. Motion carried.

B.2 95 Walnut St, Area Variance

Member Matisse made a motion to declare lead agency and list it as type 2 action. Seconded by Member Barilli. All ayes. Motion carried.

. The Board reviewed aloud the 5 factors associated with an Area Variance:

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 Adams spoke for all by answering yes.

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 Adams spoke for all by answering yes.

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c. Is the requested area variance substantial?

Chairwoman Adams spoke for all by answering yes.

d. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Chairwoman Adams spoke for all by answering yes.

e. Was the alleged difficulty self-created?

Chairwoman Adams spoke for all by answering yes.

Member Matise made a motion to deny the application for 95 Walnut St, Area Variance. Seconded by Member Barilli. All ayes. Motion carried.

B.3 Walden Glen, LLC, Interpretation/Area Variance

The Board reviewed aloud the 5 factors associated with an Area Variance:

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 Adams 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 Adams spoke for all by answering no.

c. Is the requested area variance substantial?

Chairwoman Adams spoke for all by answering no.

d. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Chairwoman Adams spoke for all by answering no.

e. Was the alleged difficulty self-created?

Chairwoman Adams spoke for all by answering no.

Chairwoman Adams: I want to ask the attorney, I know the Planning Board is taking care of the landscaping. But this has been going on for so long. Is there a way to put an expiration date so that they will not go forward, they've been fiddling with this for ten years or more just to get it going. Subject to Planning Board final approval.

Attorney Dickover: Then the other conditions you mentioned were that there would be no permanent structures to be installed in the rear setbacks on lots numbers 1 through 5 and the sheds would be removed as far away from the rear property line as practicable and as reviewed by the Planning Board. The motion is to direct council to prepare a resolution which is approved variances as requested subject to the conditions that we just mentioned.

Member Matise made a motion to direct council to prepare a resolution consistent for its findings which would grant the variances requested as depicted in the list of tables on the exhibit. Seconded by Member Barilli. All ayes. Motion carried.

C. DISCUSSION ITEMS:

D. INFORMATION ITEMS: None

E. CORRESPONDENCE: None

3. COMMUNICATIONS: None

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4. **EXECUTIVE SESSION:** None

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

9:07pm

RESPECTFULLY SUBMITTED

Marisa Kraus, Zoning Board Secretary