

Village of Walden  
Zoning Board of Appeals Meeting  
September 28, 2022

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

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

1. **APPROVAL OF MINUTES:**

2. **BOARD BUSINESS**

A. **PUBLIC HEARINGS:**

A.1 **9 Overlook Terrace**

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

**Alex Pepaj:** I am proposing move the property about 12 feet forward. It would line up with the existing neighbors. Make it more pleasing to the eye.

**Chairwoman Adams:** What size housing? Stories?

**Alex Pepaj:** 30 x 50. 1 story, it's a ranch.

**Chairwoman Adams:** Can you tell us, at what point the house would end, compared to where the hill starts to drop off?

**Alex Pepaj:** It would end about 10 feet before the hill.

**Chairwoman Adams:** Are you adding anything to the back of the house?

**Alex Pepaj:** No, it's just the deck that overhangs there.

**Chairwoman Adams:** It is this number include the deck?

**Alex Pepaj:** Correct.

**Building Inspector Stickles:** Before you go any further, the house is 30 by 50. The deck would be an additional 12 by 14. But it would be an open deck.

**Chairwoman Adams:** And what did you say was the drop?

**Alex Pepaj:** The drop off from the house from the foundation of the house would be basically the level ground and then it would begin the slope.

**Chairwoman Adams:** At the end of that deck?

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**Alex Pepaj:** There would be a couple of feet probably just enough to get around.

**Chairwoman Adams:** On that hill, how much of that property belongs to the hill and how much belongs to people down below?

**Alex Pepaj:** It belongs to me all the way down to their backyard.

**Chairwoman Adams:** The neighbor on the left, where there's a bench. Is that on your property? Or is that on the neighbor's property?

**Alex Pepaj:** I think you're talking about number 11. I believe it was originally was, but I think she moved it over.

**Chairwoman Adams:** Did you have it surveyed?

**Alex Pepaj:** I did, yes. But when she mowed the grass, the flags that were there actually \*inaudible\* stripped her flags, so I wasn't able to locate it. But I have the 15 foot from there. I had another setback. I can easily identify my property line from that point. But as we looked at it, it's pretty much right over the driveway.

**Member Matise:** There's a telephone pole there.

**Alex Pepaj:** Correct. That's on my property and you would go about ten feet in for her property. Her driveway is actually on the property line.

**Member Sestrom:** You submitted this diagram, demonstrates the proposed front is going to be even with the front of the others. Then you said that 7 Overlook is 22 feet and 11 is 25 feet. How did you get those numbers?

**Alex Pepaj:** I actually measured them from the curb myself.

**Member Matise:** The lot is 100 feet wide. The house is going to be 50 feet, so you're going to have 50 feet leftover. Are you centering the house on the property?

**Alex Pepaj:** I'm bringing it 15 feet to the left. That's the setback. Then I'm leaving the driveway to the right.

**Member Matise:** When you bought this, you bought this as one property, that and number 7?

**Alex Pepaj:** No, just the lot. Number 7. I guess the father who is living there currently, used to own both. HE still lives there and they made a decision to sell this separate lot.

**Building Inspector Stickles:** This was subdivided in 1954. And the person who owns 7, owned 9. And the person passed away and they put this lot up for sale.

**Member Matise:** There's a building on that lot.

**Alex Pepaj:** They're use to be a shed, like a pigeon coop. I removed it. It was on some stone on the ground that they had set it on 4 by 4s.

**Dave Sperry:** As you drive up the road. House #5 is 3 feet off the road. The house before is lot from the curb to the front corner to house is 33 feet. The next house from the corner looking at it is 43 feet off the curb and it goes back 69 feet. Number 7 house goes from 33 feet off the curb to 59 feet off the curb.

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Every house on Overlook Terrace on the right hand side of the road is at least 30 feet plus off the road. If he's going to do what he's saying about on the corner of number 7 to the front corner of number 11. It would go from 33 to 39 feet. Which would be the requirements of 35 feet. He wouldn't be asking for a 12 foot variance to bring the house closer to the road. But the 2 houses that he mentioned, which were 7 is 33 feet off the curb from the front corner facing his property. And if you looking from the road to the left, Sue, her house, the front corner is 39 feet off the road from the curb. I'm sorry, 43 feet from the corner. From her front door it's 39 feet. Number 7 is 33 feet from curb to the front door, 33 feet from the corner. Both dwellings are 26 feet wide and have a single car garage. As with every dwelling on that, unless you put the driveways in the front drive into them, then the last 2 houses built, which would be number 21 and 19 of which have their driveways that you would drive straight in from their 2 car garages. But those 2 houses also came with the Jersey barriers that they put up at 33 feet, 35 feet from the road. So by allowing them to put his house 12 foot forward from what the rest of the houses and you look at 11, we look at looking into the side of somebody's house. When we look at 7, will be looking at the side of the house and we're not going to be kept in line in the corner to corner. If you were to take a string and go corner to corner and see, it's got to be at least 30 feet off the road not 23 feet.

**Member Matise:** How can your measurements be different?

**Alex Pepaj:** The way you measure these properties, there's a village right a way. You measure from the center of the road. You've got to go up 25 feet into the property. That's where my 23 feet would start. You can measure from the curb as a guess. It doesn't reflect anything with my setback currently. If I were to build the house as this without moving it forward, I would be about 55 feet in with the current setbacks with the survey that I have here. If I were to move the house to the exact location that the survey says for a proposed setback that would be from the curb. You would be about 50 feet in. But that's not how you go by. You have to go by actual setback. Both neighbors would have to meet the 35 feet. They would both have to be about 50 feet in deep. The Village has about 10-12 foot right a way where the gas line is. So, in order for me to bring my house in line with number 7, which is the closest would line up, I estimate have to be about 12 feet. I would still be about 35 feet from the curb in. If you understand what I'm saying.

**Member Matise:** Can we get a clarification on what it says in the code? I don't recall it saying from the center of the road.

**Building Inspector Stickles:** To explain it and clarify for you, the right a way going up Overlook Terrace is 50 foot wide. So, if you were stand in the middle of the street and measure 25 feet either side of that center line, that would be the right way, which is approximate from the curb line back 7 feet. That's where his property would start. That's where his setback would start. Then his setback would go from that line 35 feet back. That's where his house could be built. What he's asking is to bring that 35, 12 feet forward, to be in line with the other homes which currently do not meet the 35 foot setback. That's how you get the measurement you're talking about. And you really shouldn't be measuring houses from the curb. You should be measuring from the property lines.

**Member Matise:** In this case, there's no house. Sue's property line would start with \*inaudible\* out, then that brings you to the right a way.

**Building Inspector Stickles:** He's asking that on his property survey, instead of being from the front yard line that 35 feet, he's asking to bring the home 12 feet forward to be in line with the other homes that are there. Not from the roadway.

**Member Matise:** Is this house going to be 30 feet, is that going to be deeper than the other house or pretty much the same footprint?

**Alex Pepaj:** It would be on the back, a couple of feet deeper. Well, number 7 has an additional porch.

**Chairwoman Adams:** How is your drainage going from the back?

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**Alex Pepaj:** There is an overgrown backyard. The only drainage that goes down there. It's called a footing drain. The driveway, is on the side. So it's not really going to have anything pitched toward the back of it. The actual front of the house is going to be leveled up. So it'll be leveled up with it. If you look at both 7 and 11, their front yards has been leveled up to the point where almost the front yard has leveled to the road. I'm actually planning to keep the basement as high. If you look it's a 9 foot deep basement. The front yard would be completely leveled with the curb. So it would mitigate any water flow in from the front yard to the back. We're basically going to do cross walls, which is the minimum requirement, and then the rest will be exposed to meet the road.

**Chairwoman Adams:** One of our questions is does it an adverse effect on anybody in the neighborhood? The setback probably won't, but have to make sure the water doesn't flood.

**Alex Pepaj:** Nothing. If anything less than what it's doing now, if I can put it in other words. It's not going to have any more or less than what it actually have now. I'm going to level the front. That's the only answer I can give you. I'm not planning on cutting anything on the back to make it because I have heard of issues issue some of the properties had there.

**Becky Pearson:** I would just talk about the drainage because the big issues on that street no matter where they are on that street. I think maybe put condition that it's got to come in to the storm drain however you want to do it. But I think it's really worth looking at making sure it's not running down the back of your neighbors in the back.

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

**B. FORMAL APPLICATIONS:**

**B. 19 Overlook Terrace, Area Variance**

**Chairwoman Adams:** Dean, can you add a little information as to how Fred approves how the water runs into sewer?

**Building Inspector Stickles:** We have what they call an Encroachment Agreement to tie into our storm system. There's an agreement that you come up with. You have a plan, Fred approves it, watches it be installed and then he signs off on it.

**Chairwoman Adams:** When this house is built, would we be able to tap into that with the gutters to go into the storm sewer?

**Building Inspector Stickles:** Only the front. In my estimation, there would be no more impact on the gutter system on this house than any of the other houses from 1 Overlook Terrace all the way up to 13 Overlook Terrace.

**Chairwoman Adams:** We had a terrible mess at 1 time. So, we're very cautious.

**Building Inspector Stickles:** All you're doing is having a gutter system. If you don't want gutters, water could just fall off the back of the house and go into the ground. I really think the impact that you're talking about at 21 and 19 Overlook are a lot different than just this house. There was a lot more going on. They had retaining walls. They had drainage that was not put on and put together in a way that it was supposed to. There was drainage that went from Overlook down to Liberty St. There's a lot more players up the street than are in this lot.

**Alex Pepaj:** I looked at Ms. Bongiorno's property and I understand concern when you said clean cut the property the water. It is pretty overgrown.

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Member Matisse made a motion to adopt Type 2 Action for 9 Overlook Terrace. 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.

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:** I would like to make a motion with conditions.

**Attorney Dickover:** I think one was the applicant is not to clear cut the rear yard of this property. That was one that I heard.

**Member Matisse:** What if he sold it?

**Attorney Dickover:** That would require to a deed restriction. Imposing that obligation on future owners that they won't clear cut the rear property.

**Building Inspector Stickles:** If somebody wanted to put a lawn all the way in the backyard, would that preclude them from doing that?

**Attorney Dickover:** It might.

**Building Inspector Stickles:** Because every one of those lots at one time had a lawn that went from the back of their home all the way to back property line. And I know because I mowed every one of those lawns.

**Member Matisse:** But since then the concept of runoff and control of runoff has changed a lot.

**Building Inspector Stickles:** Just consideration for people who are buying the houses are going to want a backyard.

**Member Matisse:** I mean, this is the problem with the property that slopes that way. If you buy the lot and you use the lot, you have to use it in a sound way just to protect the property owner below you. We been through this too many times. Especially on Overlook.

**Chairwoman Adams:** I understand they're not clear cutting, but you're restricting somebody's yard.

**Member Matisse:** It's the nature of the beast.

**Chairwoman Adams:** The condition I was looking at was for proper drainage out into the street to avoid flooding anyone in the back yard.

Member Matisse made a motion to approve with condition of potential ground runoff to neighboring property using best current practices. Seconded by Member Barilli. All ayes. Motion carried.

**B.2 8 Linden Dr, Resolution Approval**

Approve the Chair to sign Scott and Bill. All ayes. Member Barilli made a motion to approve the Chair to sign the resolution and grant the request variance. Seconded by Member Sestrom. All ayes. Motion carried.

**B.3 95 Walnut St, Resolution Approval**

Member Matisse made a motion to approve the Chair to sign the resolution and grant the requested variance. Seconded by Member Barilli. All ayes. Motion carried.

**B.4 Walden Glen, LLC, Resolution Approval**

**Chairwoman Adams:** We have a discrepancy here, because Mary Ellen thinks we included in the resolution for the attorney to create a clause about the sheds. I do not remember that we actually made that as a part of the resolution.

**Member Sestrom:** I remember that, on the east side of the swale.

**Chairwoman Adams:** We had a discussion. I thought the Planning Board was going to take care of that because the Planning Board already had said they had to move one of the sheds.

**Building Inspector Stickles:** For clarification, wouldn't they have to place the shed or accessory structure as part of code?

**Attorney Dickover:** It would have to be placed in compliance with whatever set back requirements the code has. Which is probably 5 or 10 feet from the property line. Which would put it probably on the other side of the swale that is being objected to. I did prepare the decision that said the variance is granted. The Board determines not to undertake consideration, I'm sorry it's approved the plans are substantially set forth requires those has been presented to the zoning board, subject to such revisions as may be required by the Planning Board in its review process. My feeling being the Planning Board will take a look at this and that they feel the shed should be pulled back, they will. And I don't remember, although 2 members do, this was to be a condition. I don't remember being decided that way.

**Building Inspector Stickles:** I'm sorry, I wasn't here, Mike was.

**Attorney Dickover:** They satisfied all the requirements of the 5 factors at your review.

**Member Matisse:** They're supposed to have 50 foot setback from the property line. They're using that setback to put those trailers there.

**Member Barilli:** The setbacks were for the trailers itself. I think the drawings were just drawings of the shed. They were just there. I don't think they were actually drawn to scale.

**Chairwoman Adams:** Mary Ellen is anxious for them to move the sheds. And I agree, but I don't remember it being in a motion.

**Attorney Dickover:** You can revisited tonight and that's why you direct council to prepare a decision and discuss it tonight in either adopt or you don't. If you think that's an important consideration, you can certainly add it as a condition, if you don't think it's that important and the Planning Board will be addressing the issue, I suggestion to leave it alone.

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**Member Matise:** I think they should put the shed on the other side of the swale. People are going to be going in and out of that shed.

**Attorney Dickover:** I guess my response to that would be that under your current code, sheds can be a particular set back from the property boundary line. Typically, those setbacks are minimal 5 feet, 10 feet from that side property line. Regardless of where these trailers are, per your decision, the shed could always be that close to the property. They're going to be there anyway or they could be there.

**Member Matise:** If the swale wasn't there and drainage on that side of that property hasn't been issue consistently for many years.

**Attorney Dickover:** I'm not sure the proof bears that out is the whole reason for their application in front of the Planning Board is the drainage issue that's currently impacting the Winding Brook homeowners about.

**Member Matise:** Why should the shed be on the other side of the swale in terms of practical usage by that homeowner?

**Attorney Dickover:** I think the answer is that the swale isn't really that big. It's 6 inches below one side and 6 inch berm on the other side and talking about a depression on the ground that's 1 foot deep. I don't really see that being very much of a physical impediment.

**Member Matise:** But then who is monitoring that somebody \*inaudible\* so that they can access their shed?

**Attorney Dickover:** That would be a drainage easement. In this case the Walden Glen trailer park would be having monitoring as well as our Village Engineer and Building Department.

**Member Barilli:** Would it be the same for every trailer?

**Member Matise:** No, just those that is in that setback.

**Member Barilli:** The setbacks, those 5 trailers are beyond the drainage area.

Member Matise made a motion to approve the resolution and grant variance subject to the shed on lots 1, 2, 3, 4, 5 on the trailer side of the swale. Seconded by Member Sestrom. All ayes. Motion carried.

**C. DISCUSSION ITEMS:**

**D. INFORMATION ITEMS:** None

**E. CORRESPONDENCE:** None

**3. COMMUNICATIONS:** None

**4. EXECUTIVE SESSION:** None

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

742pm  
RESPECTFULLY SUBMITTED  
Marisa Kraus, Zoning Board Secretary