

Village of Walden
Planning Board Meeting
October 17, 2022

Chairman:	Stan Plato	Present
Members:	Zac Pearson	Present
	John Thompson	Present
	Jennifer Muehlen	Present
Alternate Members:	Basil Stewart	Absent
	Melissa Reda	Present
Code Enforcement:	Michael Friedman	Present
Village Attorney:	Robert Dickover	Present
Village Engineer:	John Queenan	Present
Secretary:	Marisa Kraus	Present

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

1. APPROVAL OF MINUTES:

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1 Walden Glen, LLC

John Cappello: We've been before this board and everybody knows this project pretty well. We're looking to do improvements to the Walden Glen mobile home park. This is the only mobile home park in the village. The only property zoned for mobile home park in the village. It's been in existence since pre-1975, at least when it was approved and had health department approval for 53 units. Over the years, the nature of mobile homes that could mobile or replace. Several have been replaced. There have been revisions within the project back in 2007. 1 in the early 2000, the Village of Walden did a minor zoning modification to allow an additional piece of property to be added to the mobile home park. At that time it was 53 units on the property. The Health Department has renewed the approval each year for a 53 unit. Back in 2007, this board granted a site plan approval to allow the improvements, mostly which allows the replacement of a single line with doublewide improved units that are now mostly required in order to meet inspection. The plan, as it stands in 2007 was to provide drainage neighboring Winding Brook property easement. There were some concerns raised about that. So, the project was revised to include the drainage holding to be retained and treated on the Walden Glen property. As a result of that, the units now proposed are 43. A few of which are existing single wide's that will remain, the majority of which will be double wide's. Now in consultation with the boards, there were several variances required. The variances were granted. There was a public hearing and several of the homeowners from the homeowners from Winding Brook and representatives raised some additional concerns regarding the drainage. So, since that time, we met up at the site with the representatives of the HOA for Winding Brook and their engineer. And based upon that, the storm water plan was amended to revise the infiltration basins to accommodate more volume, add pretreatment and separator to propose an earth berm swale to divert storm water away from the Winding Brook property into the infiltration basin. Add an access road to the proposed infiltration basin. Install an emergency spillway to the basin. Provide storm water calculations. We will raise some comments along with the engineering consultants for the HOA. Subsequent that we did receive a comment letter from the CT Male engineering company representing the homeowners. We met with them personally a week and a half ago to go through their comments. Mr. Nasher then made revisions to the plans. Those plans were submitted to the board and then as recent as last week, we discussed those changes with the representatives of CT Male. We received a letter today stating so long as we made sure that the onsite inspections occur, that we adhere to the design as we propose it now with information we provided and add note protection of existing trees on the site that that

Village of Walden
Planning Board Meeting
October 17, 2022

should suffice. Now as far as protection during construction. The engineers of the applicant will be out there inspecting weekly. Those inspection reports would go to your engineering consultants to insure that we comply. The plans were also submitted to the County Planning Department and as of today we did receive a letter from the County Planning Department. They said it was a local determination. They suggested that we coordinate with the DOT. There was a question regarding the location of the sheds and it might affect sight on interior roads. Mr. Nahser looked at that and went over it with the Village Engineer himself and they all meet the appropriate sight distance. There was a question raised regarding the water line going through an adjoining property. That adjoining property is owned by the applicants to an entity. It's common ownership of we will file and condition a declaration of easements. Just needed to demonstrate that that easement is there and it's their property. There were also questions regarding the garage. With garages where a portion of the water system will actually be located within the existing garage. Once again, controlled by the applicant. There was a comment regarding playground equipment being provided. According to Mr. Hellman and Mr. Freidman, these projects are typically skewed towards an older demographic. There is not a real desire to have playground equipment there, but certainly if the demographics ever change in future, the applicants would, based upon the demands or concerns of the residents of the park, put up equipment, if it is requested or warranted. Last issue was sidewalks. Throughout all the applications through the Planning Board, there were never sidewalks proposed within this, as it seems to be easily accessible. It's about traffic. Don't see any real need for sidewalks. With that, certainly any questions the board may have and the public may have as we bring this to a conclusion.

Chairman Plato: John, you reviewed the drainage?

Engineer Queenan: Yes. I find it to be satisfactory.

Member Thompson: John, if and when you decide demographics change and put in a recreation facility, where would it be?

Mr. Hellman: More than likely by the home we own and the garage, there is an area there that you could put a swing or a playground. Not going to have a baseball field or a soccer field. What we're really finding out more and more, we don't have children very often. We've got 300 units. We may have 2 children. Normally a young couple, they want to get married, they buy a home and if they have children, they move for more space.

Chairman Plato: Should that be listed on the map?

Attorney Dickover: Probably be reserved space for a future recreation area subject to site plan approval. If you want to identify an area like that.

Member Pearson made a motion to open Public Hearing - Walden Glen. Seconded by Member Thompson. All ayes. Motion carried.

Luis Chavez: 67 Winding Brook. *referring to the map* I would like to know where is my road? Where are the trees? This is the fence. This is the wall. Are you going to build on this wall?

Ryan Nasher: No. From the existing wall to about 15 feet and in addition setting back 10-15 feet away.

Luis Chavez: Where the road is at, right? *inaudible* big tree, a retaining wall, very weak. I just wanted to know if you're going to build construction right there.

Ryan Nasher: We are not getting near the existing tree.

Chairman Plato: Are you taking down trees?

Ryan Nasher: 5 trees of are going to be taken off because they're going to install the infiltration basin.

Jim McGuyver: CT Male Associates. We reviewed the plans. First of all, I want to thank Ryan for being so thoughtful and working so hard to fix the things that we found problematic. They addressed all the comments that we identified in the drainage plan and basically made all the corrections and as a result, we're comfortable with what's submitted. The only thing that's missing was the note on the preservation of the trees. So, I hope that you'll have that and make that a condition of approval. So there is one thing that they added some notes about taking care during construction, but there was nothing on construction regarding saving the trees. If those trees are impacted, they have a potential to fall on Winding Brook. Care should be taken during construction purposes. They also act as a visual buffer.

Member Pearson: Is that note on here already?

Ryan Nasher: The existing trees on the Winding Brook property is close. It could be damaged. We have no problem putting a note.

Jim McGuyver: Then lastly, the one thing that we hope and this falls on the village, it will be rigorous an inspection because this is very sensitive and if it fails, it impacts Winding Brook.

Member Thompson made a motion to close Public Hearing - Walden Glen. Seconded by Member Muehlen. All ayes. Motion carried.

B. FORMAL APPLICATIONS:

B. 1 Walden Glenn LLC, Site Plan

Attorney Dickover: If it's the board's pleasure, I will draft a resolution approving the application. It would recite the history of the application, property involved, zoning district. It would itemize the 14 pages of the plan set that was presented. I have the last revision day of that being October 5. But I guess there's going to be a change to 1 of the pages. So, if you could get that to us and recite the actual pages of the plan. This matter was declared as an unlisted action by this board acting as lead agency. The public hearing is opened and closed tonight. There was a negative declaration approved by the Planning Board previously. There was a 239 referral. The board received a letter from the Orange County Planning Department dated October 13th, which reported the matter being one for the local determination and a listed 5 advisory comments. Each of those comments have been reviewed by the board and taken into consideration within the site plan. This is also an application for special use permit as a mobile home and so the decision would recite the findings of the board as required pursuant to the 305-52 respect to the special use permit, as well as the particulars of that section for mobile homes. Some of which were the variance relief was granted by the Zoning Board to this applicant and so we would recite that as well. The resolution of approval then would have I believe, 2 specific conditions. One that may maybe the first one we don't need. John, do you have a further comments letter that needs to be addressed?

Engineer Queenan: Yes, I want to look one last time for a check.

Attorney Dickover: So, we'll have one last letter from the Planning Board Engineer addressing any further deficiencies. The second would be that as build plan should be delivered to the Building Department for the interior installation of water and sewer lines prior to the issuance of the final CO for the project. The site plan approval allows for construction of only those amenities which are shown on the plans and no other amenities or changes should be allowed absent further approval of an amended site plan by this board, I believe there are 5 other agency permits required. The Orange County Department of Health, Public Water Supply, New York State DOT for utility and driveway entrance permits, New York State DEC for approval of the public sewage collection system and the DEC for approval of the storm water discharges under a general SPEDS permit. The applicant has received and was provided a no impact letter from the State Historic Preservation Office. And because the Village of Walden is an MS4 community, we will need to have prepared and submitted to the Village Attorney for review and approval of the applicable documents with respect to the MS4 community. Lastly, general conditions provide the plans as necessary and proof of payment of all engineering, planning, legal and otherwise due fees

should be made. That's what the proposed resolution would be and the form and substance, if that's acceptable to the board, you could vote on a resolution to approve it in accordance with those terms.

Member Thompson made a motion to approve the site plan and resolution in accordance to the terms. Seconded by Member Pearson. All ayes. Motion carried.

B.2 Overlook at Kidd Farm, Final Approval Extension

Jerry Jacobowitz: We need an extension for the final submission. Your resolution was on April 21st. It was good for 6 months. It will expire on October 21 and section 28 of the resolution expressly says that upon request you will consider an extension of time.

Chairman Plato: Tell me how many extensions have you had?

Jerry Jacobowitz: This is the first extensions. The other extensions were a preliminary approval. This is a final. There are different reasons they will all come together. The first one is that we didn't get a copy of the approval resolution until May 24th. What happened in between? I don't know. We made 3 requests for the resolution. The second is that, as you all know, there's lots of turmoil in the credit markets and the intention here was to get a letter of credit and letter of credit requirements had gotten tighten up with respect to subdivisions. The way that the developer is hoping to solve that is to provide 2 bonds in the aggregate for the amount of the total and come within the parameters of the bank that's issuing the letters of credit. That's got to be approved by the Village. The suggestion I have is till the end of the year that will give us about 70 days from today to get it all taken care of.

Chairman Plato: That's all you need is 70 days? Rob, how many extensions can we give?

Attorney Dickover: Your code provides for two 90 day extensions. The first one would take this application to January 21st of 2023.

Jerry Jacobowitz: Then I would ask for the 90 days and hopefully we don't need another one.

Attorney Dickover: The applicant may also want to consider requesting a 90 day extension to the subparagraph 2 of 305-60, which provides that within 180 days from the date of the Planning Board Chairperson signature on the site plan, that they have 180 days from that date to secure a Building Permit and they're allowed two 90 day extensions on that as well. So, it might make sense for the applicant to ask for that extension as well. And that would take them 90 days past the date of your signature, which I understand was June 24th, and that would put them on March 24, 2023, to secure a Building Permit. It 2 different dates that are running here.

Jerry Jacobowitz: I think that makes more sense.

Jerry Jacobowitz: Thank you. I appreciate your suggestion.

Member Pearson made a motion to approve the request to extend the time under subdivision 1 of 305-60L to January 21, 2023 and to extend the time under 305-60L subparagraph 2 to March 24, 2023. Seconded by Member Reda. All ayes. Motion carried.

B.2 Edmunds Lane

Attorney Dickover: I did send you a memo last month or the month before reciting for you this is an application by Kissaroo, who has applied to the Village Board to change the zoning district denominated for the property that's fronting on Edmunds Lane. Pursuant to code provision the Village Board prior to holding a public hearing on that request for the zone change referred to the matter to the Planning Board for a report on the proposed amendment and that is what is before you this evening. The property is 1.325 acres in size, shown on the tax maps for being a portion of 313-1-3.12. The property is presently zoned in R3 residential one family and the request is to rezone that 1.325 acres to an OLI industrial zone.

Village of Walden
Planning Board Meeting
October 17, 2022

The Planning Board has 30 days from the date of the referral to report this matter to the Village Board. Failing that, they would not have to take your report into consideration. We're beyond those 30 days, but I don't think the Village Board has had a public hearing on this matter yet either and so when you submit a report, I think we would all hope that the Village Board would take into consideration. You may remember that we prepared a report the last time Kissaroo was before this board back in 2019, seeking pretty much a reverse of this request for rezoning, not of the 1.325 acre parcel, but for the larger parent parcel. This board did report that, matter of fact, to the Village Board. I gave you a copy of that letter from August 8 of 2019 for reference, my suggestion was that you take a look at it and see if the matter was reported on in that time of change or if there they are the same. The questions before the board that the code requires you to report on R4 and then a fifth one, which would be optional. But suggested. The first issue is whether the use permitted by the proposed change would be appropriate in the area concerned and I'll list these for you quickly and then I suggest you come back and revisit them, have a discussion. The second one is whether the public facilities and services, including roads, water and sewer, exist or can be created to serve the needs of any additional residences or other use is likely to be constructed as a result of the change. Whether the proposed changes in accord with any existing or proposed plans in the vicinity. The effect of the proposed amendment upon the growth of the village as envisioned by the comprehensive plan and the last optional one but suggested, is that the Planning Board should report on any other factors it deems pertinent to the proposed zone change. And again, I gave you my 2019 report on a similar request although actually a reverse request. And if you look at that letter, you'll see how the board addressed those four issues and the fifth one as well.

Chairman Plato: I think we checked each one of those off as we went through them.

Attorney Dickover: Maybe we just run through them and see what the comments may be, that's what we would put in the report, send it back to the Village Board. Whether the use permitted by the proposed change, which would be the OLI uses are appropriate in the area concerned. The applicant has indicated that the zone change is approved that they would use this area in the adjoining parent parcel, which is also OLI for a larger non nuisance industrial use. And I think in particular they mentioned warehouse use. So the question is whether that use would be appropriate in the area in the neighborhood.

Chairman Plato: I thought we already sent a letter to the Village Board about this.

Attorney Dickover: The letter was back on the prior request where the same applicant was before you seeking to rezone the larger parcel to either was multifamily or R3. Something along those lines. The application before you tonight is suggesting that this piece is 1.325 acre parcel was previously zoned OLI and that by virtue of a zoning map change, it got an R3 designation.

Chairman Plato: Right. And we thought it should go back to OLI.

Attorney Dickover: That's what the applicant has suggested. Yes it should go back to OLI.

Chairman Plato: I thought we had agreed to that.

Attorney Dickover: All right. What about the use, though. Is OLI appropriate? Because you have a larger parcel adjoining it suitable for those purposes. Are there other industrial type users in that neighborhood?

Member Pearson: Across the street.

Chairman Plato: Furniture warehouse and circus.

Attorney Dickover: On the second issue, whether the public facilities and services, including roads, water and sewer, exist or can be created to serve the needs of any additional residences, that's not here, but are other uses which could be industrial use to roads, water and sewer exist or can they be created?

Village of Walden
Planning Board Meeting
October 17, 2022

Member Pearson: They exist, but is there enough sewer and water up there? We're only talking about 1.3 acre change.

Attorney Dickover: They would likely to be constructed in the event this use were to be approved or warehouse use or OLI use were to be approved. That would be a requirement of the Planning Board of the course in connection with that application. The applicant would have to prove their ability to do it. Third one, whether the proposed changes in accord with any existing or proposed plans in the vicinity. So, you should take a look at what is proposed or planned around this. And is this in accord with it.

Chairman Plato: Now that it's all residential it really serves no purpose because it's not residential. It can't be used. Not enough space to do anything with it. So as far as the other part of OLI of the adjoining property, I think it is a more value.

Attorney Dickover: Everybody else okay with that statement?

Member Thompson: I agree with it.

Attorney Dickover: The fourth one on the effect of the amendment upon the growth of the village and vision by the comp plan. We would say there would be no effect on the comp plan. And then lastly, are there any other things that the board would like to report to the Village Board on that?

Chairman Plato: Well, I don't know if you want to, but that OLI, because that's sitting there for a long time, so maybe it should be considered residential.

Attorney Dickover: That was the application before you back in 2019. I think you reported at that point was favorable to that. We had some issues concerning it. Are we now taking an inconsistent position?

Chairman Plato: I'm speaking for myself not for the other members.

Attorney Dickover: Maybe the concern is that this property has remained vacant and unused for many years. I guess it used to be a mine, sand and gravel pit of some sort.

Chairman Plato: If we recommended rezoned residential, we don't know if there's enough water and sewer there either.

Attorney Dickover: Then, since that time has been vacant, it hasn't been put to use, if the applicant has a proposed use that they believe is viable and requires OLI zoning. Perhaps it's the right thing to do for the public purposes of the village. I will draft a letter for the Chair signature and submit it to the board for your review and approval. We are under a clock that's probably expired, so I'll get it done as fast as I can.

C. DISCUSSION ITEMS:

John Kovalsky: My concern is about a conservation easement that was set up by this board in 2006-2007 for Beazer Homes Development on Galloway Ln. There was a guarantee that no trees should be cut down here.

Engineer Queenan: I wasn't here in 2006, could probably guess it existed part of the subdivision with the Beazer Homes.

Becky Pearson: I vaguely remember that there was something there about an easement.

John Kovalsky: There were 14 or more trees cut down and there was an approval for a fence to be installed on the property line there. In direct conflict with the spirit and the conservation easement that was originally set up. It's in part of the easement that no structures should be built on there, no trees should be cut down.

Village of Walden
Planning Board Meeting
October 17, 2022

Attorney Dickover: It's an enforcement issue. This board really wouldn't have anything to do with that other than having brought it to their attention. It's the Building Department. Perhaps you want to make an appointment or speak to the Building Inspector about that because this board doesn't have jurisdiction over this.

John Kovalsky: I was there and did raise concerns last September when that property owner had started a fence project without a permit. I asked Dean about it, he said that he'll have to look at the language of it. Fast forward to two weeks ago, there was a permit for the fence and I went in to talk with him again and he said he hadn't written the permit. That someone else in the office had done the permit. Who's going to enforce it?

Member Pearson: We don't enforce anything.

Chairman Plato: Would you look into that?

Code Enforcement Officer Friedman: Absolutely, I'll look into it.

D. **INFORMATION ITEMS:** None

E. **CORRESPONDENCE:** None

3. **COMMUNICATIONS:** None

4. **EXECUTIVE SESSION:** None

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

RESPECTFULLY SUBMITTED
Marisa Kraus, Planning Board Secretary