

Village of Walden
Planning Board Meeting
February 13, 2023

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

October 17, 2022

Member Thompson made a motion to approve the October 17, 2022 Minutes. Seconded by Member Pearson. All ayes. Motion carried.

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1

B. FORMAL APPLICATIONS:

B. 1 Edmunds Lane, Kissaroo – 6 Lot Subdivision/Site Plan

Lori Presting: I have a subdivision and site plan approval. It's before you on the on 7 lot subdivision. The first lot being 12.23 acres, which houses a proposed 195,540 square foot commercial building. This building will include 22 spaces and 101 parking spaces for an estimated 131 employees. It will be accessed primarily from Edmunds Lane with 30 foot wide access road, which continues to a 20 foot wide gravel fire access road that will go around the western and southern portion of the building. And then there's also a gated emergency access off Millspaugh Ct. The site will be serviced by the village water and sewer. We've also shown some areas reserved for storm water management practices. The remainder in the lot will be the proposed 6 lot subdivision, which the lots range in size to .28 acres to .4 acres. And that will be accessed by a 35 foot curved roadway cul-de-sac of Edmunds Lane. At this time we'd like to move forward with the site plan application for this lot but defer the 6 lot subdivision for the future, but include this all in the study for this purposes of the whole property. The property as it exists right now is vacant land and it's primarily wooded. The zoning for this lot with a commercial building is entirely in the office light industry zone and then the residential lots are in the one family residence of 12,000 square foot lot zone. Also there's right now existing a Central Hudson easement that goes through the transmission line that goes through the northern part of the property. We were trying to do the SEQR for the whole lot, but defer the subdivision until later.

Chairman Plato: This one parcel?.

Lori Presting: Currently it's 2 tax parcels.

Chairman Plato: Why bring up the 6 lot if it's a separate tax parcel?

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Attorney Dickover: They want to present the entire project, but now I'm hearing that maybe they don't. Let me see if I understand you're presenting the project in totality for SEQR purposes. I don't have a problem with that. As far as the development of the residential parcel, 6 lot subdivision. Are you not going to present that subdivision at this point?

Lori Presting: Correct.

Attorney Dickover: So, no site plan with respect to that.

Lori Presting: We don't want to pursue the site plan application for the residential subdivision.

Attorney Dickover: I guess you're withdrawing that aspect of your application, but for SEQR purposes we're going to consider it.

Lori Presting: Yes.

Engineer Queenan: Do you have to do any modifications to the lot lines?

Lori Presting: I don't believe so, because it's continuously owned by the same owner.

Engineer Queenan: No, I'm just saying to keep the parcels separate.

Lori Presting: They are separate.

Engineer Queenan: Yeah, but when you're doing your phased plan. It looks like the building means the lot lines moved. You have an existing tax parcel. *inaudible* You would have to do a lot line change.

Lori Presting: Yes.

Engineer Queenan: Would you do that as part of the application?

Lori Presting: Yes.

Engineer Queenan: They'd have to do a lot line change.

Attorney Dickover: They're eliminating a lot.

Engineer Queenan: Correct or they're moving it. That would have to be part of the site plan for the industry. So essentially, I look at it in one of the phase, it would be a site plan for the building for a lot line change. You would make that lot line official here and then you have this parcel left over.

Jerry Jacobowitz: Isn't it 2 separate lots now?

Engineer Queenan: It is. But I think the existing boundary for one of the lots is not along the lines. I'm just looking at the tax map and the boundary looks like it's farther out than what you have shown.

Jerry Jacobowitz: Both properties are owned by the same entity. So, in terms of lot line change, there's really nothing happening different. They're both owned by the same owner.

Member Pearson: But the line has to be in the appropriate spot.

Jerry Jacobowitz: We're going to have 2 lots. We have an industrial piece and a residential piece.

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Engineer Queenan: What I'm saying is, your existing boundary looks something like this, the way it shows on a tax map.

Jerry Jacobowitz: And they're owned by the same properties owner.

Engineer Queenan: In order to build the building, you have to move the lot line. Otherwise you'd be coming back for another variance.

Jerry Jacobowitz: The zone has changed for the entire parcel that is OL-I.

Attorney Dickover: We're not talking about zoning lines. We're talking about lot lines.

Engineer Queenan: Understood. It's just that the two lots that would be associated with the non- nuisance industry, because you have the non- nuisance industry, we have both lots. Then you come back in the future and move the lot line? The current line goes through the proposed building, even though both are same owner. Two tax lots owned by the same person. You're showing a map of the proposed building, that that lot line go through.

Jerry Jacobowitz: If you go to the assessor and we say we want you to merge these two tax lot parcels together, there's no more.

Engineer Queenan: You could do that today. Or you could just move the lot line as part of this application.

Attorney Dickover: No. He's got to move the line, John. He's got to move line.

Jerry Jacobowitz: The two pieces, residential development and OL-I. And there's not a lot line change.

Attorney Dickover: John, the existing lot line is on this map. The one before us when he came in for the zone change.

Engineer Queenan: It'll hurt you in future.

Attorney Dickover: Just to refresh your memory, this project was before you for a recommendation for a zone change for this portion of the applicants property *referred to map*. It was in the R zone. The application was to change LI that was granted. But that is the property line. So, that's not eliminated or moved to where it's proposed on your proposed subdivision. The development that you're asking for would be developed in the LI zone over these two lots. So this lot line has to be eliminated and you do that by subdivision because I don't think we have a lot line change law in the village. It would be a small subdivision.

Jerry Jacobowitz: Or we could go to the assessor of the town on the new roll and say merge these two parcels together.

Attorney Dickover: No because the parcel is this one and when you request to merge this portion of the lot into that one. But you can't do that without a formal lot line change. You're changing the property line.

Engineer Queenan: I think what Jerry is trying to say is to just merge.

Attorney Dickover: You may make it one lot.

Jerry Jacobowitz: And then we're subdividing it into two. The OL-I and the residential.

Attorney Dickover: That's the same thing.

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Jerry Jacobowitz: It can be done either way, is the way I see it.

Engineer Queenan: I'm just advising you that I think it's part of the application.

Chairman Plato: I would think the easiest thing is a lot line change.

Attorney Dickover: Absolutely. Do them at the same time, kind of the way it came into us. This was going to be needed the way they came in to you anyway. They're just now withdrawing the 6 residential section.

Member Pearson: Unless there's something to share.

Engineer Queenan: Right now, they're not showing anything that's sharing.

Attorney Dickover: By doing what they're suggesting, are residential lots going to need variances?

Engineer Queenan: The way they're shown it doesn't appear to be except I would caution the applicant that parking is not allowed on the front or side yards of the residential lot. Some of the lots, we just had a driveway and in the front. Just to be aware of that section of the code. Looks like a lot 2, you could push the house back and get out of the front yard. The lot 1, looks a little difficult. Lot 4.

Member Pearson: The houses are different sizes. 1 and 3. 2/3 is getting a haircut. Not in the setbacks. There's no parking from there to the street. The other houses are further back.

Chairman Plato: Houses are 35 feet from the street, aren't they?

Member Pearson: That's what is shown here.

Engineer Queenan: Unless you're going to have a two car garage. Is it your intention to do this or are you going to look at the impacts from the residential zone?

Lori Presting: Yes.

Attorney Dickover: Based on this plan.

Engineer Queenan: Are you going to amend your application and take it off?

Jerry Jacobowitz: Let me explain to you why we're reversing our step. The industrial building will be served by a service line. We do not need DEC approval for a service line as long as our gallon is below the threshold they set. However, for the 6 residential lots, we need a sewer extension. The village is under a prohibition of allowing any extensions until they satisfy certain things with the DEC, that they have not done. If we continue with the application for the 6 residential with a sewer main, we're going to get bogged down and we're not going to be able to get approved for the OL-I until the village does something with the DEC to satisfy the needs. This has been going on a number of years and the village has not done whatever it is the DEC is saying.

Engineer Queenan: Not entirely true.

Jerry Jacobowitz: Not to the satisfaction of DEC. Whether it gets done tomorrow or next week or in 5 years, we have no way of knowing that. We don't want to hold up the site plan. That's why we're now asking to sever it. But we are going to study the whole thing because you can't just study this one piece. We're going to try to give you the information on the whole thing and all the impacts. And maybe when the village satisfies DEC, we can resurrect the subdivision.

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Member Pearson: You don't have to have residential piece with OL-I.

Jerry Jacobowitz: They're entirely two separate things.

Attorney Dickover: He runs into a segmentation problem if he doesn't do it at the same time. It's part of total development of the property, which is known and it's adjacent.

Engineer Queenan: But it's a separate tax lot and separate parcel.

Attorney Dickover: Run into a SEQR segmentation problem, not examining the full environmental impact of the project that's known to them and owned by them on the adjacent property.

Engineer Queenan: Because they've shown us this map.

Attorney Dickover: And we've seen it before. Probably wouldn't have come up if we hadn't seen this map because we've seen the zone change before. This adjoining residential property has been there in front of us several times.

Engineer Queenan: I was figuring that they could amend their application or move the residential off the map, just do the lot line change. Show this as future or whatever it is R3 and proceed with their site plan.

Attorney Dickover: They can but for environmental review purposes it should be taking into account.

Chairman Plato: So, it's a sewer problem. Are we saying that these 6 residential lots are going to have less and how do we know that?

Engineer Queenan: It's not about a less flow. It's about means.

Jerry Jacobowitz: It's not a quantity of flow. It's called sewer main versus a connecting service.

Engineer Queenan: DEC does not give approvals to connecting services. But they have to give approvals to mains. And that's where the hurdle is.

Jerry Jacobowitz: What we hope to achieve through this application is a site plan approval for the industrial and a 2 lot subdivision. The industrial piece and the residential piece. And a residential piece is going to be studied so you can see the whole picture. But we're deferring asking for an approval because of the DEC's position.

Chairman Plato: I want the cleanest way. Approve the lot line change. Take it like it is on this drawing and go from there.

Engineer Queenan: If we're looking at everything. I don't see how you can get to a major declaration while taking into account the residential portion. We can't get in sewer.

Jerry Jacobowitz: We can't get to a neg dec?

Engineer Queenan: We're not able to process it because it's sewer.

Jerry Jacobowitz: But the residential isn't going to be in front of you anymore.

Engineer Queenan: I'm hearing the proposal is to look at everything.

Chairman Plato: A lot line change and put an application in for OL-I.

Engineer Queenan: But I think that goes for segmentation.

Attorney Dickover: I think this requires a little more thought than we're going to be able to give it tonight. Why don't we leave this on the table for part of the applicant to comment back to us on and I'll also comment upon it. I need to think about this a little bit.

Engineer Queenan: Even if they withdrew this application and resubmitted.

Jerry Jacobowitz: We're going to amend it.

Chairman Plato: I don't know how you can look at it. If this is one property and look at it as one property and building and the residential into account. Go with the lot line change and create separate properties. That should be easier.

Attorney Dickover: It is easier, but it may not be correct. The easy way is not always the proper way. I think we should table this part of the discussion. Let's hear from the applicant a little more on the issue, and I will give it some additional thought and we'll come back to it. That's for SEQR purposes. However, I think we can proceed that tonight. What I would like the board to do, which is declare its intent to be a lead agency on this project. It's going to be a type one regardless of what happens with residential versus the other parcel. It only gets better if they change it and pull it off. Nobody gets less of an impact.

Member Pearson made a motion to declare intent to lead agency on subdivision and site plan for 1 Edmunds Lane and type one action. Seconded by Member Thompson. All aye. Motion carried.

B.2 161 Millspaugh Ct, Extension Request

Member Thompson made a motion to accept the request for extension until May 16, 2023. Seconded by Member Pearson. All ayes. Motion carried.

B.3 Architectural Review – 81 East Main St, Exterior Sign

B.4 American Lumber

Jim Van Houten: I believe the last time we were here we had an *inaudible* approval on. On pages 1 and 2, we'd like to combine them. Page 1, 108 feet and page 2, is 120 feet. Initially when we were here, the height of our building surpassed the building code. We did go to the Zoning Board and we have a variance. The building would be 300 feet by 65. Looking at this, 6 foot overhang. On the existing building, upstairs, there is only 1 egress. So, we wanted to change that. We put a set of stairs coming down. And that overhang is to cover the stairs.

Engineer Queenan: You were before the board for a site plan approval, correct? Is that this?

Jim Van Houten: Right. Yes.

Engineer Queenan: Has anything changed?

Jim Van Houten: We had tentative approval and I think it was a total of 330 feet. But I can't remember where we started from to where 330 feet is. This office and the doorway coming down, I'm not sure whether we have to go 2 feet the south to match that up. I couldn't get a hold of Howard. And I couldn't find the site plan. So, that's one thing I'm not sure of. We'd like to match that up.

Engineer Queenan: So, essentially you just want to go back to your original site plan that was reviewed by the board. Make whatever changes you need, 20 this way, 20 feet that way. Get it to match. This now, you want to do it all at once?

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Jim Van Houten: Yes.

Engineer Queenan: And you've got the variance that you needed. Ok. My suggestion would be to get a copy or something of the original site plan and update it to this and come back to the board. Check with the Building Department, they may have a copy.

Extension - Overlook

Chairman Plato: Do know when everything was signed and when the dates were started?

Attorney Dickover: If I took a long look at it, parced it all out. There is one additional 90 day extension available on the project, which would take him to June 23rd of this year.

Member Thompson made a motion to grant extension to June 23, 2023. Seconded by Member Pearson. All ayes. Motion carried.

Jerry Jacobowitz: As you're all aware, the money situation has changed dramatically and the lenders are being much more difficult. Section one, the section that's fully ready to be signed. There's 20 residential units in it, and the improvement costs are about a million four. So, 20 units into a million four is a big number and the lenders are concerned that it's too rich. The thought is get approved and pursue section two or four. Two is the one that is off of Coldenham Rd and that has 38 dwelling units. Or go to the unit section two that has 42 units and do one and two or one and four at the same time. That then increases or decreases the cost per lot that a bank would be financing.

Chairman Plato: You said 1.4 million for 20 acres. That's 70,000 an acre.

Jerry Jacobowitz: That's improvement cost. Too rich. How do you get it down, get more units even though it will be more improvement cost. Those costs will get out of reach out to a much lower number. So, right now we're trying to determine which it should be section two or section four. The other reason that there may be a preference to do section two, is because that has the route for the water. So by doing section one, bringing the waterline in from 208, bring the waterline in from Coldenham Rd, all you need to do to connect it is go through this one section and you've got the waterline done. You don't have that if you do section two. Actually four, because four is a dead end. So you would still then have to come in and put in that long waterline as part of the second section improvement cost. That's where we are going to make our mind up shortly. And maybe something we'll be back in March to give you more specific on it. But that's the nature of it.

Member Thompson: Didn't we have a discussion about this? Didn't we want one of that done for a particular reason? And then go to two.

Engineer Queenan: I don't think there was any particular order. I think the applicant wanted to *inaudible* and then there are certain aspects that have to be tied to whatever phase, like phase one, the water main needs to get connected through. The need to maintain emergency access road. I don't think there was a specific order. There are specific improvements that have to be done. Where what section that is done, I don't think it really matters.

Jerry Jacobowitz: The whole plan over here has the detailed of requirements for each section, which was done based on what Bob put together and John to make sure that each section could survive on it's own. Doing two sections at once doesn't alter that. Because you have to do whatever it says for each section. But it's a money issue that if you can do a section that's got a big part of the waterline, you're accomplishing two things at one time.

Attorney Dickover: We spent a lot of time on this and it went through a number of permutations. My recollection was that there was an agreement that you would do section one first and then the sequence

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of the following sections. You could do any order you wanted to. John saying that's not right. But that's the way I seem to recall, I'm going to have to go back and look at that. We're talking something that happened three years ago, maybe more. There's a whole sectional plan that was approved.

Engineer Queenan: I thought one was chosen by the applicant. I don't know why one would have to come first, but if he's proposing one plus any other one.

Attorney Dickover: We know what's happening, he'll be back in March. We'll take a look at the section plan that was approved. There's a resolution approving the sectional development. So, we'll take a look at it and see what it says.

Engineer Queenan: Was that the last extension?

Attorney Dickover: That's the last one.

C. DISCUSSION ITEMS:

D. INFORMATION ITEMS: None

E. CORRESPONDENCE: None

3. COMMUNICATIONS: None

4. EXECUTIVE SESSION: None

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

8:22pm

RESPECTFULLY SUBMITTED

Marisa Kraus, Planning Board Secretary