

Village of Walden  
Zoning Board of Appeals Meeting  
September 27, 2023

Chairwoman:	Brenda Adams	Present
Members:	Christine Scieurca	Present
	Mary Ellen Matise	Present
	William Sestrom	Present
	Scott Barilli	Present
Alternate Members:	Lisa Mazzeli	Absent
Building Inspector:	Robert Wallner	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:**

August 23, 2023

Chairwoman Adams made a motion to approve the August 23, 2023 minutes with changes. Seconded by Member Sestrom. 4 ayes. 1 abstention. Motion carried.

**2. BOARD BUSINESS**

**Chairwoman Adams:** I just wanted to say if there is any member on the board who feels uncomfortable with the relationship with either the applicant or with their representative, to the extent that you can't have an open mind or vote without bias, please recuse yourself at the beginning of that session.

**A. PUBLIC HEARINGS:**

**A.1 83 East Main St**

**Attorney Dickover:** The Planning Board had circulated notice of intent of lead agency. In front of your board, this is going to be a Type 2 action. In that determination, you don't need an environmental determination to proceed even though they're lead agency.

Member Scieurca made a motion to notice as a Type 2 action. Seconded by Member Barilli. All ayes. Motion carried.

**John Cella:** We're here to obtain variances for a pre-existing commercial building. Proposing to build a second floor on. The second floor does not create any additional setback. You have issued several similar area variances for the previous applications, which I believe was around 2018. One of the previous owner came in for site plan approval of the same building, but they were leaving the building as is. The variances that we need are, a lot surface coverage, rear yard and the rear yard setbacks. We're not increasing. We're not going any closer to the property lines. Just going to put it on top of the existing structure.

**Chris Miller:** I would just like to take the building and actually have a nice apartment above there on the top of that. I think the village can use more. What I have in there right now is my business and I have a lot of staff that work for me and I would like to supply a nice place to rent.

**Chairwoman Adams:** So, if you had an employee that wanted to rent. I do need to ask the Building Inspector one question just to clarify. If this building didn't need the side lot changes, if it was just sitting there in the business section that it's in, you wouldn't have needed to come to the Village Zoning Board. Correct? They are allowed to build above it under the current code. They're allowed to add a second floor. Their problem is that the building is already non-conforming.

**Building Inspector Wallner:** I believe that to be true. There are other buildings in that zoning district that have a second story dwelling above them, but they were they were built as that instead of modified to be that.

Village of Walden  
Zoning Board of Appeals Meeting  
September 27, 2023

**Chairwoman Adams:** But if this building was smaller and the side lot, the area and usage was appropriate according to village code. You could have issued a building permit to go to the second floor without any further discussion.

**Building Inspector Wallner:** Most likely.

Member Sestrom made a motion to open the public hearing for 83 East Main St. Seconded by Member Barilli. All ayes. Motion carried.

**Member Matise:** Number one, at the bottom of this request, where's the rest of the answer to the last question? It says, "this property was subject of a previous application for similar area variances that are all preexisting non-conforming for existing conditions. There was never an application made for the construction, a second floor, but the"

**John Cella:** There was a problem with your application. I tried to do it on the computer and I should have just handwritten it.

**Member Matise:** Where those variances granted?

**John Cella:** All the previous applicants received variances, I believe in 2018.

**Member Matise:** Why are you coming here again?

**Attorney Dickover:** I don't have record of it. You're looking for any response? I don't have a record.

**John Cella:** But I know the variances were granted as part of the previous, when the building was vacant the previous owner came before the Planning Board for site plan approval. They also had to come to the ZBA for similar because they had the preexisting non-conforming. We have to come again because we're creating the second story and the variances that are seen as three dimensional.

**Member Matise:** You're saying there's a previous variance so that is just applying to just the ground floor or applying to the whole lot?

**Attorney Dickover:** I don't have record of it, so I don't know, there was a prior application made from the Planning Board by a company called Little Britain, LLC for site plan approval of the existing building. But within that file, I don't see any reference to variances being granted. That's not to say they weren't.

**John Cella:** I looked at the previous plans prepared by Charlie Brown and they said the variances were granted.

**Member Matise:** Then there should be a record of it here in Village Hall.

**Attorney Dickover:** We're going to have the Building Department to check the records to see and maybe give to the Zoning Board the prior variance that was granted, apparently.

**John Cella:** We could even look at this separately so that we're here anyway.

**Attorney Dickover:** Could we have the Building Department search and see if there were variances granted? The board would want to know that.

**Member Matise:** Number E, I think that their answer is contradictory. Explain briefly before the difficulty in complying with applicable zoning has not been self-created. He goes into, the existing building is only a single story and is not adequate square footage in the building to offset the costs of owning the property.

Village of Walden  
Zoning Board of Appeals Meeting  
September 27, 2023

So that becomes a self-created issue. I don't understand the answer in relation to that question. Therefore, owning the property is a loss for the owner. But he bought it knowing that.

**John Cella:** We can modify that. We're coming back anyway.

**Member Scieurca:** I was going to see if you can recall what the rest of the answer was.

**John Cella:** We'll modify it.

**Chairwoman Adams:** What we would do is leave the public hearing open until next month. We would read a copy of the deed. We would also need record of the previous variances which the Building Department can supply. And the finishing of that last question that seemed to have gone off the page.

**John Cella:** Or resubmit the application answers.

**Chairwoman Adams:** Well, I don't know if you just need to finish that. I think you need to speak to the Building Inspector, because if you change any wording, you change the application. I'm not sure, you may just want to finish your statement here and show what you actually typed that make it on the printout. Is that correct?

**Attorney Dickover:** They could do that. Either way, would be up to them. They can modify this application in any way that they choose to or supplement it or put any additional information.

**Chairwoman Adams:** Just a little more detail.

**Attorney Dickover:** Before you leave, the board should be apprised that this application is currently in front of the Planning Board for the site plan approval. A question has been referred to the Building Inspector on the application because the applicant is seeking approval of use of the second floor as an ancillary residence to the office use on the first floor. Whether or not that is an ancillary use to an office use is an issue that the Planning Board referred to the Building Inspector for a determination on. Depending on the Building Inspector's determination, the applicant might want to appeal that determination if it's not in their favor and that appeal would come to this board. So for purposes of planning and economy and saving you're coming back and forth. You might want to wait, up to you, but you might want to wait until the Building Inspector makes that determination. And if it's contrary to your position, it seems to me they could join the request for your interpretation of that issue and put them together, rather than during this piece. And then maybe having to come back on a new application to appeal the Building Inspector's determination, if it is contrary to your position. If it meets your interpretation, then you just sit back in front of the Planning Board. But for economy purposes, I put that to you, it's your decision what you want to do.

**John Cella:** I agree. We're going to wait for the determination and we'll have that in hand before we come back on that.

**Attorney Dickover:** For purposes of the board's planning, we'll keep the public hearing open, table the application until further notice, either from the applicant, Building Department or Planning Board.

**Member Matisse:** I don't know if I'm jumping the gun here, but I think probably what we're going to want really specific information. It's going to be about parking and where their parking spots are going to be assigned for residence as opposed to commercial.

**Attorney Dickover:** Typically, parking is an issue for the Planning Board. I think the applicant has represented to the Planning Board that their plan meets current zoning requirements for parking. So, they can address that as part of your inquiry.

Village of Walden  
Zoning Board of Appeals Meeting  
September 27, 2023

**Chairwoman Adams:** Could you could you just say one more time, this apartment that is being considered, when you say ancillary, are you talking that goes with the business. We've said three different things. I interpreted is that you wanted to make a rental up there to provide additional income. Ancillary would mean that it was in connection with the business.

**Attorney Dickover:** It would be occupied by the owner of the business is the way they presented it to the Planning Board. Did I say that correctly?

**John Cella:** No, it's an accessory with a primary use. The primary use would be the first floor and the apartment would be accessory. The owner occupies the first floor.

**Attorney Dickover:** Ancillary use to the business owners.

**John Cella:** Right. But that doesn't mean that they have to occupy it.

**Attorney Dickover:** I may have misspoken, I didn't think I heard that at the Planning Board meeting, but I'll take it the way you present it tonight. An ancillary use to the business office is what they're presented to the Planning Board.

**Member Sestrom:** Will it be on the market?

**Chris Miller:** I own a few in town and I don't ever put them on the market really. I like to give it to people I know.

**Chairwoman Adams:** But someone could apply. It doesn't have to be one of your employees.

**Chris Miller:** They could apply.

**Chairwoman Adams:** I think maybe we need to clarify this.

**Attorney Dickover:** It's not before you. It's an issue for the Planning Board. And they referred it to the Building Inspector for interpretation on the issue. And if the Building Inspector agrees with the applicant's position, unless somebody appeals that, it would stand. If it's contrary to the applicant's position, then they will decide whether or not they want to pursue that use and they would bring an appeal to this board, to the Building Inspectors determination.

Member Sestrom made a motion to table the application for 83 East Main St and keep the public hearing open. Seconded by Member Matise. All ayes. Motion carried.

### **B.1 52 Walker St**

**Alex Pepaj:** Basically have two vacant lots. One against the other, kind of on the corner. The main lot is 51x189, which in 80% of the village, it's a buildable lot. But the zoning on this particular area requires the front of the building be 70 feet. We're asking to change it to 50 so we could accommodate a smaller sized house. I have the set of plans here. The house will be 26 foot wide by about 50 feet from the back. Which still would leave the setbacks pretty much what they are on the rest of the street because the house would be flipped long ways.

**Chairwoman Adams:** So, you're changing the size?

**Alex Pepaj:** We're changing the front of the building line, requires right now 70 feet. We're asking to change it to 50, which is what the size of the lot. Then the setbacks right now of that street require 25 feet, 10 or 15 on the other side, where you combine them 15. So, we're asking to change down to 10 on each side. We're not drastically reducing the sides. The front we're changing from 70 to 50, but the lot itself is 51 by 189. It's common lot in the Village of Walden. Probably like 70-80% of the lots are about

Village of Walden  
Zoning Board of Appeals Meeting  
September 27, 2023

that size. But on specific zoning requires that the building line, where you start the property has to be a minimum of 70 feet. But we don't need that. We're at 50. The design of the house that I proposed to Mr. Lustig, it's a house that goes long ways. It starts at 26 feet. Goes to 50 in the back.

**Chairwoman Adams:** According to the application, you want to do a 30 by 40.

**Alex Pepaj:** Correct, but then we added a 10 foot deck on the back. So, you have to ask for as much as you can. The back part, we don't need any restriction going back. The lot is 189 feet. It's the width that we have an issue with.

**Chairwoman Adams:** I just wanted to clarify.

**Alex Pepaj:** The box that you have would be a 30 by 40, but for the building purposes would require 30 by 50. That's not an issue. The issue is the width.

\*went over the specs/pictures of the plan\*

**Chairwoman Adams:** What are the actual dimensions that you want?

**Alex Pepaj:** 26 by 40. The important part is the front. According to the Building Department, we don't need any setbacks in the back. It's the front.

**Chairwoman Adams:** According to this, there is nothing about the front. It's all about the side. Because 30 by 40 would put you where you needed a 5 foot variance because you need a 15 foot and you only had 10.

**Alex Pepaj:** No disrespect to Rob, but he's very new here. Dean knows most of the zoning here. He knows exactly what you're required to build. So at the entrance of the building, your property that you have to put on that specific zone. You need 70 feet. Right now we have 50. We're asking to reduce from 70 to 50. On that 50, we've got a buildable lot. Then the house we're proposing, that's the smallest house that could be built, which is 26 feet wide by 40 back. Two things are in the application, front reduced from 70 to 50 and then the sides from one to 25 to I don't recall exactly what we put in there, probably 10 feet either side, I believe. We're only reducing 5 feet on the sides.

**Member Scieurca:** If you go to 26, you're actually only 2 feet less.

**Alex Pepaj:** If we build the house 26, we still get the current lot, we still have 25 feet left over. It's called side setbacks. Which is what the zoning requires right now. The house would fit perfectly. The issue we have, it's the width of the lot. I asked to reduce the sides so that it would give me room to work on it without obstructing the setbacks. For putting drains and etc.

**Chairwoman Adams:** This is a legal building lot, supposedly. What is the 70 foot to the 50 foot?

**Attorney Dickover:** I have no idea.

**Chairwoman Adams:** Rob, can you add to that?

**Building Inspector Wallner:** This is the first I'm hearing of that. Our conversation was about the side setback.

**Alex Pepaj:** No, it's the front, too. Walker Street specifically and the surrounding area there, it's an R4, I believe, which requires you to have a 70 foot minimum to build a house. Everybody on that street has 70, 80, 100. Then you turn the house crossways, minimum house is 40 feet 45. That leads you with 20 feet or 15 on either side. But this specific block is 55 by 189 depth. Legally, you can't get a permit to build any

Village of Walden  
Zoning Board of Appeals Meeting  
September 27, 2023

sort of size house because it would be too small for you. It's not legal because the front edge of it, which is 50, that's the only part that doesn't. I ask for the size to be reduced because according to Dean you're going to need the extra room if you're going to build there.

**Member Scieurca:** My understanding is that there are two requests.

**Alex Pepaj:** Correct. The front and the sides.

**Member Matise:** But that's not in the application. Is there a reason why the property owner is not here tonight? I have specific questions that only he can answer, and they're very pertinent to whether this really is a buildable lot.

**Alex Pepaj:** I have had a discussion with him in depth.

**Member Matise:** It has nothing to do with the dimensions.

**Alex Pepaj:** Whatever other questions in regards to why the property is vacant, why it's not, why this property has been for sale for several years. It could be sold and it could be used as storage. He could put a couple of sheds in there.

**Member Matise:** I'm telling you, historically, going back, maybe this property could not have been sold. So there are a lot of questions here that only the owner can answer.

**Alex Pepaj:** The owner can only answer so many. The Building Inspector, Dean, knows the history of lot better than anybody.

**Member Matise:** I think if the owner can't answer them, then his attorney would have to. That's the type of questions I have.

**Alex Pepaj:** As of current building code, it's a buildable lot.

**Member Matise:** We're not talking about the dimension of the lot.

**Alex Pepaj:** I could put a structure.

**Member Scieurca:** You could put a structure there. But you can't put a structure there without us decreasing it from 70. So, technically, it's not a buildable lot.

**Alex Pepaj:** A structure is a structure that has no foundation.

**Member Matise:** The information that I have has nothing to do with the dimension.

**Member Scieurca:** I understand that. First of all, the application does not request the variance from 70 to 50. The application is incomplete. Number one. Number two, the way the lot stands right now, unfortunately, it's not a buildable lot. You're requesting two variances, one for us to reduce it from 70 to 50. And then you also asking for the 26 by whatever the size of the house is you're asking us a foot. On the finished product, 24 feet.

**Alex Pepaj:** Correct.

**Member Matise:** Is there water and sewer hookup there?

**Alex Pepaj:** There is not. They're paving the road this year and according to the DPW, they're going to put an apron for a driveway in there. If the owner had chosen to have water and sewer, he can have that.

Village of Walden  
Zoning Board of Appeals Meeting  
September 27, 2023

Water, sewer or gas or whatever he wants. There is a current apron there that goes into the lot. But the new road is going to have an actual apron that it's going to be for the lot.

**Member Matisse:** They're going to continue going up the hill and pave? That has been dedicated to the village, the rest of that street or not? As far as I know, it's still a private road, isn't it?

**Alex Pepaj:** Which part?

**Member Matisse:** Going up the hill. Where Selena is.

**Alex Pepaj:** Correct. The lot is parallel to the existing houses. It's in between 2 houses.

**Member Matisse:** Madam Chairwoman, there's so many important questions that need to be asked of the owner.

Member Scieurca made a motion to adopt this as a Type 2 Action. Seconded by Member Matisse. All ayes. Motion carried.

Member Sestrom made a motion to open the public hearing for 52 Walker St. Seconded Member Scieurca. All ayes. Motion carried.

\*Chairwoman Adams read letter from Bill Kiernan, 47 Walker St into the minutes\*

**Keith Lewis:** I live at 46 Walker Street, which is the property right next door to where I proposed the building. This was almost like a smoke and mirrors show because I was not aware of the setbacks. That was kind of what he threw at you guys today. I'm glad that you guys were able to pick up on all that stuff. Mainly what I want to, I implore you guys to come up and visit the property. It's tight up there. As a host, not only the property, but we're filling in Selena and Walker Street itself. Throwing in a house right where he wants to, where the proposal is. It just more cars, more water, sewer. Just a more of an impact on our infrastructure that we have already. On top of that, not that any and I hope it never happens. God forbid there's a fire, you're talking about, you're right next door. You're right on top of me. We're endangering other people, too, as far as that goes. I was able to quickly only because of personal circumstances, and I have breezed over the application that Mr. Lustig applied to you guys for and the storm water. The storm water runoff. It's on a hill. That's going to flood out my back yard. Me, the gentleman to my right here, have actually had conversations in regards to that property when I first bought it because they built my house to the next property. My property. As far as a building, a buildable lot, we went back and forth and our conversations were it's not a buildable lot, don't worry about it. With that, I just want to say thank you for your consideration in reviewing this application. If you can look over it with a fine tooth comb, because I believe that there's some inconsistencies with what he's proposing as opposed to what's on a piece of paper.

**Chairwoman Adams:** Your house is facing this piece of property. Your house is to the right?

**Keith Lewis:** If you're looking if you're looking at my house, the piece of property is on the left.

**Member Matisse:** What year did you build your house?

**Keith Lewis:** The house was built in 2019-2020.

**Member Matisse:** It was after 2016. You have an option to do one 10 foot side and one 15 foot side. So, you put the 10 foot side near the vacant lot.

**Alex Pepaj:** Correct.

Village of Walden  
Zoning Board of Appeals Meeting  
September 27, 2023

**Member Matise:** Instead of moving over closer to Tom Murray's old house.

**Keith Lewis:** From my property line the edge of my house is ten feet.

**Member Matise:** And then you have 15 on the downhill side.

**Chairwoman Adams:** I see your parking is there. Then there's a small tree. Is that on your property?

**Keith Lewis:** It's not.

**Chairwoman Adams:** I believe everybody did come up there to look.

**Keith Lewis:** Thank you very much, everybody. I appreciate.

**Theresa Lewis:** 46 Walker Street. My concern is that in the center of that property, where my children and the family behind these children play, it floods. I don't know if that's from the construction of my property, but it is a pond. When building this house, how is that going to be addressed? Is this house now going to be lifted up? What is the damage going to be on the left and right side of that property because our property floods? I'm a little unsure and worried about the worthiness of that area.

**Member Matise:** It floods behind your house?

**Theresa Lewis:** Behind my house as well. The whole property floods and it's not drained off properly. When we had our driveway paved, we had to do a special curb that came around the side because as the water runs down Selena Ct, anyone that lives up there knows it pours right down the Walker Street and so that it would curve out because it actually, prior to having the driveway paved, it flooded my entire garage. Some of my concerns are not just about, we can just keep building houses and building houses. But what's the structure of this. Walden is an old community. There are a lot of houses that are already in need of severe repair. Now we're building new houses that are also going to need repair in the future. Those are some of my concerns because it is a flood area. Thank you.

**Matthew Hogan:** 56 Walker Street. My concerns are all of their concerns plus building next to it. I'm concerned about all the water issues that they mentioned as far as undermining within 20 feet of my house. How that might affect the foundation. That's my concern. On top of everything else.

**Chairwoman Adams:** Your house is one of the older houses on the street. And what about your garage back there? Is it on the property line?

**Matthew Hogan:** That also would not be accessible. It is on my on the side of my property, but I would have no access to it whatsoever.

**Member Matise:** Do you have access now?

**Matthew Hogan:** Yes.

**Member Matise:** How?

**Matthew Hogan:** Through the easement from that side.

**Chairwoman Adams:** Do you have an easement in writing?

**Matthew Hogan:** No. I'll have to check over my deed and look at it.



Village of Walden  
Zoning Board of Appeals Meeting  
September 27, 2023

**Chairwoman Adams:** It might not be just on your deed. It can be on the deed to this piece of property. If you don't have it in writing, it was a gentleman's agreement at some point.

**Matthew Hogan:** I'll take a look at it. Thank you very much.

**Lauren Carney:** 56 Walker Street. We're concerned about, 10 feet off your property line is very close. We have three kids. When they built the other property. They ripped the power lines out. Our family was uprooted. We had to stay somewhere else for a few days. That's obviously a concern of mine with these power lines being knocked down again. I'm concerned about the tree, but the kids have the tire swing. It's a very close, close lot. When we purchased it, it was built, I think, in 1899 or 1900s. It was all one lot. Over the years, it's been broken up and divided and sold. And when we moved in, all neighbors had offered to purchase different parts of this land that would appease all our families. Some of them wanted the backyard. We wanted the side yard. The owner was not interested in any of the times that we had all. 2 of the houses have the land behind them. Another lot. Then we have in between us and we've all kind of mentioned over the years, we'd be interested in purchasing this and it's kind of fallen on deaf ears. I think we're all concerned about something being built there and we all expressed interest in purchasing a little piece of the land.

**Member Matisse:** What year did you buy your house?

**Lauren Carney:** We closed on that in 2019. We've been there 5 years. Not to mention him and him both have been maintaining that lot, since we moved in 5 years ago. Not the owner. Mowing it, cutting line.

**Keith Lewis:** When they were building a house next door, when they started doing that, we had a lot more mice in the house, a lot more rodents going on the porch, all that stuff. That's also another concern of mine as well.

**Member Matisse:** You're talking about for when they built 46.

**Keith Lewis:** Correct.

**Lauren Carney:** It was like a field. But since they bought and moved in, they've been maintaining the property.

**Keith Lewis:** If we didn't maintain it there would be more rodent problems.

**Lauren Carney:** Not only that, the owner would be getting fined for it. It's been vacant because it's been chosen to be, in my opinion.

**Member Matisse:** Who's maintaining the lot behind you?

**Theresa Lewis:** We've been working to clear it.

**Keith Lewis:** I just recently retired so I've just kind of cut trees and the builders of my house promised me that they would level out my back yard. Have yet to get that done.

**Theresa Lewis:** When they cleared for 46, they pushed everything to that extra lot instead of removing it. So there are upturned tree stumps and they left it there. When we moved in, it was supposed to be leveled. It was supposed to be a lot of things. But regardless of all of that, a working family. We worked to clean it up. We're trying to work to clean it up. Similar to our neighbors to the right of us.

**Member Matisse:** But this is the lot behind you?

**Theresa Lewis:** That he also owns.

Village of Walden  
Zoning Board of Appeals Meeting  
September 27, 2023

**Member Matise:** That you don't own. You shouldn't be there to clear anything out.

**Theresa Lewis:** We want to clear it, we have dogs and ticks and things like that. Again, rodent issues. They cleared their lot just to make it look nicer in the area. Which he left. I'd also like to mention, when we went to look at the house, there was no for sale sign. The minute we closed on the house, the for sale sign went up and he tried to get us to buy the lot for a very unreasonable price. Every family there. I feel like this is just another ploy. You couldn't get an unreasonable amount. We were all willing to do a reasonable amount. He would have gotten that three different ways. He was unreasonable in his request. And now this is a new request and another way to make money. We could divide the lot in a reasonable, fair manner. But he's unwilling to do that. Now he wants to build a small, tiny house that's not going to match the rest of the neighborhood. The structures. And then squeeze in on the sides. I know that the rest of the village looks like that. That also comes with its own issues. Why continue to create that?

**Sean Borg:** 44 Walker St. Been there since 2009. To the right of 46. The water issues that they say. The back yard, the back part the 50 feet that I don't own that I do maintain because I have to look at it. I was looking to buy the property from Mr. Lustig. I found that he bought it from a tax auction. 1500 dollars from the tax auction. I actually happened to use him to do my taxes that year. He mentioned he owned that property behind us, interested in buying it, he wanted \$30,000 for it. I said that's outrageous. He went down to 25, I said no. We've been going back forth for 10 years about trying to buy this property. Unreasonable person. I came from Staten Island and moved up to Walden because this is what happened in Staten Island. Started making the lots smaller and smaller. It's a great neighborhood, love it. But it's really squeezing the house in between 2 houses. That's what happened in Staten Island and makes everybody leave. I would want to see it on my block.

**Antissa Borg:** 44 Walker St. He's absolutely right about Mr. Lustig. We made numerous offers to him. We've been maintaining that property, the one in the back. I believe fully that he purchased this piece that we're talking about today to connect it because he tried to bully us into purchasing that property for an outrageous amount of money. And we said to him, because he threatened us and said, I'll just develop a house and it'll be in your yard. And we said, you can't do that because you need an easement from one of us.

**Member Matise:** You also need frontage on the street.

**Antissa Borg:** Exactly. And his words were I thought your husband was a fireman. I said my husband is a fireman and we both used to work for the Department of Buildings in New York City. He stuttered and was very upset about that. He said that he would find a way to be able to develop it. I believe that this is one effort to do that, because if he didn't bring the sewer and the electric and whatever else forward into that, then I don't know if he can connect it to the back.

**Member Matise:** But he's not talking about doing that. He's talking about putting a house 305-14-55

**Antissa Borg:** I'm saying I think this is all part of Mr. Lustig's plan in order to develop as much of that property as he can. Because as Theresa said, at least 4 offers have been made to him over the years, market worthy offers, and he absolutely refused to take any of that. We all offer to buy these old pieces of property and he refuses.

**Member Matise:** I believe that he can't sell it.

**Antissa Borg:** He can't.

**Member Matise:** And you don't know, not because of the physical lot, not because of anything that we talk about. Legal issues.

Village of Walden  
Zoning Board of Appeals Meeting  
September 27, 2023

**Antissa Borg:** Yes. I don't have exactly the same issues as my neighbors, but they are 100% right. Sorry for you, but if they're allowed to build something there. It's going to be a disaster. It's going to be an utter disaster. So I hope that you guys can take that into consideration to how it's going to affect the rest of us and even the people behind who aren't here tonight, because they also complained as well.

**Member Matisse:** People on Center Street.

**Antissa Borg:** Yes. Thank you.

**Chairwoman Adams:** I would recommend that we make a motion to continue the public hearing to get more information from the Building Inspector, to ask the property owner to appear.

**Member Scurca:** Theresa, can you come on up here and just show me where the water runs on your property on the map?

**Attorney Dickover:** You're going to have to make that an exhibit at the board meeting with you.

\*map entered as Exhibit 1\*

**Member Matisse:** What you're saying is that even with no structure on that lot, there's puddling?

**Theresa Lewis:** And any time heavy rainstorms, it is coming down Selena Ct.

**John Thompson:** What would be the square footage of the house?

**Alex Pepaj:** 40x26x2. A little of 2000. The issues regarding the water does exist with the house on the hill but the way every home is built in the Village of Walden has to comply by a building regulation. Have to have a storm drain, gutters connected to the storm drains that go to the storm drain. The backyard, 90% of the property, some of the back pitched away from the property. Whether the water goes back or not, it depends who owns the property adjacent to it. You can't quite pitch the water away in case of 46 over there. If they want it, they would have had to get a right of way from Mr. Lustig to pitch the water towards his lot. He could have also complained it flooded his lot. So it goes both ways. And you can't direct everything towards his lot. Most of the water, it depends on where you are. You either have groundwater or you don't have groundwater. You can't really erase that. It's just the way the property is. As far as the narrowness of what it is, I don't know if they understand the setbacks, it would still be a minimum of 20 feet on either on the other side of the property. So the property is not going to be fully closed to the back. If Mr. Hogan chose to work with Lustig and say, can you give me a right of way, I doubt the next owner or Lustig or whoever that purchases in the property, they will have an issue giving them the right of way to access the back of the property. As far as the electricity and the trees and all that, NYSEG has done a terrible job connecting the properties with the power there. The power lines are not supposed to go across somebody else's property to connect to another house. Each property has their own power line going over their property. If you go over somebody else's property, you have to have an easement. It would show on a survey. In this case, it doesn't. The first time when the house is built, we wrote that issue with my brother, with NYSEG and they said, can you relocate the power to the pole? NYSEG does not address that. Only the homeowner can address, the homeowner can request NYSEG that they move the power over because it's going over someone else's property line.

**Member Scurca:** Power line easements are generally not shown on the survey. Says subject to any easements right away and/or \*inaudible\* would be utility companies.

**Alex Pepaj:** Absolutely. But if you do a recent survey, which I could have brought one, they do show it in their survey. But in this case, it wasn't. This was recent. They still refuse to either NYSEG or the client because it's a bit of a nightmare to get through them and their operations are just understaffed. In the attempt to remove some of the trees, the power lines were knocked down. They did not respond to

Village of Walden  
Zoning Board of Appeals Meeting  
September 27, 2023

correct it. They put it back the way it was. I know the seniors that were appointed to the area. NYSEG managers, supervisors, by their gas and electric. They do accommodate a little bit better. They're more responsive because we've had a lot of gas lines, a lot of electric lines in the last three or four years. Now we know who to talk to. There was a tree there, the tree is going to be trimmed. The line is going to come through 90%. A lot of lines have that issue. The other thing as far as Mr. Lustig, he has, this is his property, 100%. Fair and square, just like everybody has their property here. I have spoken to him. He would be willing to negotiate a fair deal with our guys in order to get back around. If they're interested. They do use his property without his permission. This is from what I heard. Regardless, it's private property. I'm not a lawyer. It's what I heard from him. I'm just helping him on the process of getting the buildable lot. What he chooses to do with it. That's his business. The main issue, which I can understand, is the size of the lot. I understand that they don't want any neighbors or want a clean lot and they're going to be there. Mr. Lustig still pays taxes every year.

**Chairwoman Adams:** We would like Mr. Lustig to come and talk to us. We do have issues to discuss. We would have to discuss the water runoff at some point. NYSEG possibly put that across because that was supposed to be a street someday. They may have looked at that as just any other corner going from one place to another. There's a lot to be discussed here and I think we may need Mr. Lustig to give us more information. We also need the Building Inspector to look into this legal lot versus the 70 to 50 that really is not in the publication. It may need to be republished. I'm not sure how this is going completely fly. We need more input.

**Attorney Dickover:** I think this is the kind of situation where the applicant might need to amend their application because frankly, right now I'm not sure what they're asking for. It came in as a fairly simple side yard variance. Now it seems to be changing. He asked for a 30 foot house and now it's a 26. Front yard side that sounds like maybe a lot width variance. I think you should amend your application so the board has in front of it a clear picture of all of your.

**Alex Pepaj:** With all due respect, the guy with the most experience, Dean Stickles, he looked at the application with me and Mr. Lustig.

**Chairwoman Adams:** He did not request the front yard change.

**Attorney Dickover:** The public hearing wasn't noticed for that either, so we have a problem with the publication and legal notice. Please amend your application.

**Chairwoman Adams:** We will keep the public hearing open and we will table it for further information.

**Member Matise:** I have this chart, this one says 2007, which I think is the most recent, for R4, this is saying front yard minimum 30 feet. Side any one 10. Side total for both 25.

**Attorney Dickover:** There's a difference from interior lots versus corner lot so you need to be careful when you read that.

**Alex Pepaj:** The build for the actual house is built in front of the house, has to be 70 on that particular street. You could have an entrance of 20 feet and then it opens to 70. As long as it opens to 70 where you place the house. You could have a 30 foot lot. Starts at 30 or 20 feet of 30 when it opens up to 100. But the minimum we need is 70. That's what's called building where you build your property. You need a minimum of 70 feet. This lot is a square by 50 by 189. It doesn't have that issue. It's 50 all the way through past 20 feet of the lot from the main street.

**Chairwoman Adams:** And that's saying something a little different even yet.

**Attorney Dickover:** Probably be referred to as the buildings as the width of the lot at the building setback.

Village of Walden  
Zoning Board of Appeals Meeting  
September 27, 2023

**Alex Pepaj:** Correct. That's exactly what I thought we put on the application.

**Chairwoman Adams:** The application says what you said about the frontage, but you're now saying it's not the frontage.

**Alex Pepaj:** It's not the building, it's what it's supposed to be.

**Attorney Dickover:** Building lot at the building setback. You put the building lot at the building setback.

**Member Scieurca:** Now I feel like we have 3 issues. Are we looking at the width of the lot and the set back of the house?

**Attorney Dickover:** That's a different dimension. The building setback is different. The width of the lot at the building setback is what the applicant's describing.

**Member Matise:** That has to be a total of 25 feet. Just like their house at 46.

**Becky Pearson:** I'd like to ask the gentleman in front here, talk about an easement. Some type of papers you have on an easement. What is that?

**Matthew Hogan:** I have an easement to my garage.

**Becky Pearson:** On that piece of property?

**Matthew Hogan:** Yes.

**Chairwoman Adams:** And that would have an effect on where the house could sit.

**Member Matise:** Mr. Hogan, when you purchased the property from the McGees, did they offer you this other lot?

**Matthew Hogan:** Not at the time.

**Attorney Dickover:** I'm going to make one other request to have the applicant present his title, insurance policy and the certificate of title insurance, which are two different things for the board take a look at.

Member Sestrom made a motion to keep table the application for 52 Walker St and keep the public hearing open. Seconded by Member Barilli. All ayes. Motion carried.

**B. FORMAL APPLICATIONS:**

**B.1 83 East Main St, Area Variance**

Tabled

**B.2 52 Walker St, Area Variance**

Tabled

**B.3 8 Woodruff St, Resolution**

Member Barilli made a motion to approve the resolution for 8 Woodruff St. Seconded by Member Sestrom. 3 ayes. 1 no. 1 abstention. Motion carried.

**C. DISCUSSION ITEMS:**

Village of Walden  
Zoning Board of Appeals Meeting  
September 27, 2023

**Chairwoman Adams:** Mary Ellen brought this up earlier today. When we put a condition on a piece of property that gets followed up on. The one in particular, 150 East Main. Their conditions was that they were only open I believe 3 days, which was a Sunday, Monday and Tuesday because it's actually an office. It was approved to be an office for estate sales. They were going to sell a few things left over from the estate sales. They were not to put anything out front. And it's growing out front. I will have to agree with Mary Ellen, which is not normal, but I do agree with her. I did see it the other day and it seems to have grown with different things out front.

**Member Matise:** The thing is they said they weren't going to leave things outside when they were closed. These things are out there constantly. I did send Brenda the pictures of when they're closed and all this paraphernalia. She'll send them to you.

**Building Inspector Wallner:** Could you said to me because clearly it's a violation.

**Chairwoman Adams:** Is there a tickler file in the Building Department? When we put a condition on something that at some point, basic violations like grass cutting and all of that everybody has to memory, but they don't always remember what was said at the Zoning Board 6 months, a year later, and then they start to creep in. Christine knows a place on Wait Street.

**Member Scieurca:** Between Sunset and Alfred, the second driveway. Told them to discontinue the use of the left side driveway. Recently seen a portishead or a porti-garage or whatever the lean-to things are that you stick a car under. The use of that driveway was to be discontinued.

**Chairwoman Adams:** It's the only house between the 2 streets.

**Building Inspector Wallner:** I've sent them multiple violations.

**Chairwoman Adams:** I was just wondering. Do we have to follow up? Is there something in the Building Department?

**Building Inspector Wallner:** I will make a point, if we can somehow create that list. I would be happy to be the keeper of the list.

**Chairwoman Adams:** We don't always put conditions, but on occasions.

**Member Matise:** One of her other conditions on East Main street was garbage on the side of the building. And there is just a huge pile.

**Building Inspector Wallner:** Most of that has been moved from what I can tell.

**Member Matise:** Today there was a pile of boxes and stuff. That's garbage.

**Chairwoman Adams:** Maybe they were putting that out for the recycling people today.

**Member Matise:** Every time I've seen it, it's been there. I drive past there four times a week to go to the gym.

**Member Sestrom:** I stopped in there the other day and they think that they're going to be evicted. They're worried about that because they're in conflict over who fixes what. They may not be there that much longer. But you should go down there and scour that sidewalk right away.

**Building Inspector Wallner:** For my own personal edification, these meetings are public and recorded. I would like to see that the comments made are relevant to what the applicant is asking for. To mention that there are legal issues, I think it's a violation of privacy.

Village of Walden  
Zoning Board of Appeals Meeting  
September 27, 2023

**Chairwoman Adams:** You mean what Mary Ellen brought up?

**Building Inspector Wallner:** Yeah, I just don't think that's important for the public to get their teeth in.

**Chairwoman Adams:** We will take that under advisement.

**Building Inspector Wallner:** It could have easily turned into a disaster. I don't think we need that here.

**Attorney Dickover:** I listen to the comments, when it gets out of the realm of appropriate or relative comment, I try to control it. I try to monitor some of that, but it's frankly, it's not my position to do that. It really falls to the Chair. Whether Brenda feels it's appropriate or not, it's really up to the Chair. It's really not up to me and I try to do my best without stepping on the roles of the board members and the Chair. I don't know whether I agree with you or not, but what Mary Ellen was alluring to. That's why I didn't get involved.

**Chairwoman Adams:** She had already approached me on that. And I feel that we probably didn't need to get into that tonight.

**Attorney Dickover:** Mary Ellen asked me something or said something to me earlier about things that she has determined by investigating or looking into the application, which is a board members role, purview, certainly. But if you're going to be a witness or bring forth your findings from an investigation like that, you really need to be a witness at the hearing and may then preclude you from being an impartial, non-biased board member. So, to the extent that you conduct these kind of ad hoc investigations and come in with information, you really need to present that as a witness in front of this board and as a witness, I don't think you can then sit as an impartial board member and make a determination. I would ask you to be careful about what you say in the context of a board meeting.

**Member Matise:** In fact, I was not going to present it. I would like the honor to present the information.

**Attorney Dickover:** Certainly you could ask the owner questions about things that you think are pertinent.

**Member Matise:** Which is what I was going to do. But the owner was not here. What you are requesting them to do for the next meeting, the information will come out.

**D. INFORMATION ITEMS:** None

**E. CORRESPONDENCE:** None

**3. COMMUNICATIONS:** None

**4. EXECUTIVE SESSION:** None

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

RESPECTFULLY SUBMITTED  
Marisa Kraus, Zoning Board Secretary