

Village of Walden
Zoning Board of Appeals Meeting
November 15, 2023

Chairwoman:	Brenda Adams	Present
Members:	Christine Scieurca	Present
	Mary Ellen Matise	Present
	William Sestrom	Present
	Scott Barilli	Absent
Alternate Members:	Lisa Mazzeli	Present
Building Inspector:	Robert Wallner	Present
Village Attorney:	Robert Dickover	Present
Secretary:	Anisetta Valdez	Present

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

1. APPROVAL OF MINUTES:

October 25, 2023

Chairperson Adams made a motion to approve the October 25, 2023 minutes with changes. Seconded by Member Sestrom. 4 ayes. 1 abstention. Motion carried.

2. BOARD BUSINESS

Chairperson Adams: On pp. 1 under chairwoman adams, the second section under 83 East Main, that's just a matter of hitting the wrong key, it's b. dollar sign it should be b. 4, and my changes are only ones that I think are significant to the situation. On pp. 4, again under my name, it says 14 to the left and to the right, it should be 10 after that and to the right 10. On pp. 6 there is a place there that says, fourth sentence down, it says "real and inaudible" it should say lot; a real lot. On pp. 7 and pp. 8 we have changed the meeting date to November 15th from the scheduled 11/22 due to the Thanksgiving weekend.

Chairperson Adams made a Motion to Approve. Seconded by Member Sestrom. 4 ayes and no abstains. Minutes are approved.

A. PUBLIC HEARINGS:

A.1 45 Second St

Chairperson Adams: First we need to clarify some things being requested. Let me read the notice. Village of Walden, Zoning Board, appeals, please take notice that a public hearing will take place on November 15, 2023 at 6:30pm or as soon thereafter as can be heard at the Village Offices at One Municipal Square, Walden, New York to consider the appeal of Mr. Felix. I'm sorry, could you say your name?

Mr. Felix: (inaudible)

Mrs. Felix: (inaudible)

Chairperson Adams: And please forgive me if I say it wrong the next time, for an area variance for property located at 45 Second St and identified on the tax map as section 302, block 4, lot 14.2, located in the R4 single-family zoning district from the certain provisions of the zoning law of the Village of Walden so as to construct a 12x27 single story garage, vary section 305-6 dimensional regulations to reduce the side yard setback from the required 15' to the requested 20", vary section 305-13A 3 accessory building and uses so as to construct and 21x27 single story garage within the required front yard area.

So would you like to come up and please tell us what it is you want to do.

Mr. Felix: This is what I want to do, but we couldn't do it, so I took pictures of what I want put on but a smaller size. So it's just a metal building with 6x6s and 2x4s cross-bracing, [on] my existing driveway

Village of Walden
Zoning Board of Appeals Meeting
November 15, 2023

that's already there. I wanted to put a carport up, but they are just outrageous, so it's just a hull, framed; and cross bracing, and walls on three sides.

Chairperson Adams: Can we pass this around? And can you please let the minutes reflect that Lisa is here?

Secretary Valdez: Yes, I saw her, I did. She didn't look like Scott so I figured it was her.

Chairperson Adams: See that she took her seat.

Mr. Felix: So I'm not changing anything there; it's just going to go on top of the existing driveway.

Chairperson Adams: So there are a couple of things we need you to clarify. First, is to confirm the size of the structure, because in one part of the report, it was 21'x22' with 462 sqft, on another place [it was] 21'x27', 567sqft.

Mr. Felix: It's 21' length and 27' back.

Chairperson Adams: Ok, so we can confirm the size, 21'x27'. The second thing we would like to ask is where does this building intend to start? Right at the edge of the sidewalk?

Mr. Felix: No, 2' in from the sidewalk. So where my stake is at in my property line is 26.5", or 28" from my property line to where my driveway is at, my block.

Chairperson Adams: Would you say that again, please?

Mr. Felix: 28" from my property line to my driveway is at, my block.

Ms. Felix: [Inaudible] because we are on such a steep hill, so the driveway was originally built up by the previous owner, and it was all carpet block around it; we just replaced some of the blocks with new blocks, and he wants to build on top of the blocks that are already existing there.

Chairperson Adams: So back to my question, exactly where is this building proposed to start? Your sidewalk?

Mr. Felix: 2' in from the sidewalk; so from the sidewalk in, I would say 2' to 3'.

Chairperson Adams: No, we need to know exactly. Not 2 to 3, we need to know if it's going to be 3' or 2.5' because we may have to repost this and request, put it out for posting again to your neighbors because it was not requested to be closer to the sidewalk than allowed.

Mr. Felix: But, as I explained to Rob and Dean beforehand, back in August/September, Dean already knew about this because he was at my house and seen what I wanted to do. That's when he told me to fill out the [request] for a building permit, first application which I did, and he denied me because of 6" and told me I had to come fill out the paperwork for the zoning board, which I did, last month, to be here on [October] 25th and we weren't on the agenda. Then Rob called me the next day and said he was sending letters out to all my neighbors and Dean had all the paperwork and [inaudible] was in his office at 7 'o' clock in the morning and filled out everything with him.

Chairperson Adams: But we may still have to repost this because of the setback. We will need to know exactly where you plan to have that started. If it's going to be 3' or 2.5'.

Mr. Felix: It should be right on my variance, right where my drive is at.

Chairperson Adams: I do not see that. The driveway looks very close to the sidewalk.

Mr. Felix: It is.

Village of Walden
Zoning Board of Appeals Meeting
November 15, 2023

Chairperson Adams: Ok, is it 2.5' or 3'?

Mr. Felix: It's going to be, if I had to guess,...

Chairperson Adams: No, I cannot have a guess, we need an exact figure.

Mr. Felix: Do you want me to run over there and measure?

Chairperson Adams: No, but that is something that we need to have.

INDAUDIBLE DISCUSSION

Chairperson Adams: Do you have anything else you'd like to add at this point?

Ms. Felix: Dean should have let us know.

Mr. Felix: Or at least somebody should have given me something to have presentable, when I came here today I could have had all your information instead of another month coming back here again.

Chairperson Adams: You would have had to come back anyway in another month because, and this should go in the minutes, because the GML 239, we have not received a response from the county, so we could not vote on this anyway, because we don't have the answer back from the county. The mailings were sent out, and the public notice...

Mr. Felix: They were because [my neighbors] all came to my house asking me what it was about.

Chairperson Adams: ...and is there anything else you need to add before we open the public hearing?

Mr. Felix: Just what else we need before we come back again.

Chairperson Adams: We will go through that as we talk about this. I would like a motion to open the public hearing.

Member Sestrom Motion to Open the Hearing. 4 Ayes. Motion carried.

Chairperson Adams: We first need a motion to declare the zoning board lead agency and type 2 action. *Member Sestrom Seconded.* The public portion is now open. These look like all new blocks. I know it's new black top.

Mr. Felix: If you walk around two sides you would see all the existing blocks, to the left side of my neighbor's house the blocks were deteriorating so when I dug out the broken blocks I put in new blocks.

Chairperson Adams: the ones on the top look all new

Mr. Felix: yes, they are because they were all deteriorating. They were already there, so all I did was replace [what was broken].

Chairperson Adams: Did you take any pictures?

Mr. Felix: Yes.

Chairperson Adams: [Survey is attached] Did you have anyone inspect your wall?

Mr. Felix: Why would the wall need inspection?

Chairperson Adams: Because you're asking us to allow [building] a structure on top.

Village of Walden
Zoning Board of Appeals Meeting
November 15, 2023

Mr. Felix: Again, beforehand, they had Mike working here, Mike was also out there the day I did it, four times, talking to me while I did it.

Member Sestrom: So you're saying is that you weren't asked to get it inspected.

Mr. Felix: No, [Mike] said, all you're doing is replacing [what's broken].

Member Matisse and Mr. Felix discuss, the back wall

Member Sestrom: That's the purview of the building inspector.

Mr. Felix: Here is my sidewall and here's my opening, here's where I want to start, right there, at the first pin. So you have more than 3' from that first pin.

Member Sestrom: So all this here is going to be apron.

Mr. Felix: There's going to be nothing there. The whole front is going to be completely open. All I want to have is an enclosure to put my vehicles in to keep them out of the weather.

Member Sestrom: Fair Enough.

Mr. Felix: There's no electric. No nothing in there. The whole thing is going to be wide open span.

Member Sestrom: How Tall is this going to be?

Mr. Felix: 9' Opening. At the peak of the roof, 12'.

INDAUDIBLE DISCUSSION

Member Matisse: I'm looking at the assessor's picture from 2011, that's on the Orange County GIS and I'm looking at this map too and I see a rectangle here and a bigger rectangle so are you expanding from the existing side?

Mr. Felix: INAUDIBLE from the existing corner to my driveway was broken, I dug the dirt out and that was existing there, I just went over the top and replaced what was broken. INAUDIBLE

Member Matisse: Why are there two lines here?

Mr. Felix: You would have to ask the guy who INAUDIBLE because I paid for a second survey when I bought the house in 2005.

Member Matisse: It could be something, it's hard to tell, we could try to lighten the picture.

Mr. Felix: If that's the case when I did the work back in June, Mike should have said something to me when he was at my house a couple of times, when I was doing the work.

Member Matisse: I'm just counting the squares on the sidewalk so did you come over further?

Mr. Felix: No, it's exactly what was there.

Member Matisse: Well, [did you] dump all this out because in this picture in 2011, it's level.
INDAUDIBLE DISCUSSION

Mr. Felix: You have that picture, if you extend it and you look at the back corner the block is still there but it's broken down tiers. So what I did was, I removed the dirt from that block and came all the way out, removed the broken down blocks under the ground and replaced all that.

Village of Walden
Zoning Board of Appeals Meeting
November 15, 2023

Member Matisse: Now instead of this where it was dirt, it's a wall.

Mr. Felix: That's correct.

Mrs. Felix: It had been there. It was cinder blocks underneath that had been covered over and they had never fixed it.

Member Matisse: This is dirt, this looks like dirt.

Ms. Felix: INAUDIBLE the previous owners of the house knocked part of it down because the wall was there under the dirt when they started moving the dirt there was a wall there.

Member Matisse: I wonder why you moved the dirt then. If the dirt was fill.
INAUDIBLE

Mr. Felix: So what you're looking at was the hill. So here is the existing blocks, I went all the way down and I removed the blocks and I followed it down so it was all level.

Member Matisse: Was this all level to the back of the parking area?

Mr. Felix: No.

Member Matisse: INAUDIBLE the neighbor's driveway is on the slope.

Mr. Felix: Yes, we know, INAUDIBLE

Member Matisse: You didn't move this over?

Mr. Felix: No. Here's the existing block, all I did was remove this by hand and replace it with the new block and fixed it and the same thing on the opposite side. To what the driveway should have been.

Member Matisse: Yes, but where your pavement ended before, now you're paving over to the block so you did extend it. We don't know what it should have been.

Member Sestrom: I think I want to know if there's anyone here who objects to this.

Chairperson Adams: Yes, but we're still working on this we haven't asked them yet.

Member Sestrom: Did we not open the public hearing?

Chairperson Adams: Yes, but let us go through everything. Lisa?

Alternate Mazzeli: You discovered this under the ground as you were cleaning up so there was something underneath. What I'm saying is you started to discover this and clean it up, so it seems to me that's what the original line was.

Mr. Felix: I stayed with the same height that was there, and I just came out right to where it was completely level.

Alternate Mazzeli: So that's where you came up.

Mr. Felix: Yeah, so when you mow that where it still is there, [the blocks] I just took them out, whatever was loose and I extended it. Mike was at my house four times. Nobody said anything to me.

Chairperson Adams: It doesn't appear that Michael documented that in your file. Christine?

Village of Walden
Zoning Board of Appeals Meeting
November 15, 2023

Member Scieurca: The only thing I surmise is that looking at the photos, I don't think Dean said anything about the 3' because [Mr. Felix] had the required 3' from the sidewalk, but if it's going to be less than 3' then obviously again, it needs to be noticed.

Chairperson Adams: Yes, we need to confirm that. Bill, do you have anything?

Member Sestrom: No, I'm happy with everything I've heard so far.

Chairperson Adams: Would anybody from the audience like to make a comment thus far?

Mr. Pepaj: Just wanted to clarify, if it's a carport, what he's trying to build is a carport. It doesn't require anything, 6x6 in the ground, it's technically a non-structured building, it doesn't even qualify as a garage. It doesn't go in the ground, he's using the existing driveway, the only thing is he's going to come from the back of the driveway because he can't go past, or it would be below, and he's only coming up to the property line. As far as the retaining wall, you can extend that to the length of your property line. He can go with the driveway all the way to the property line. We were going to do a metal building [but it was too expensive].

Mr. Felix: It was cheaper for me to do it this way. I'm still doing the same thing, I'm using a metal roof, still meeting snow standards, this is the structure.

INAUDIBLE DISCUSSION

Member Scieurca: I don't know that that's necessarily true, and someone can correct me but with retaining walls, if they are over a certain height they have to be inspected.

Mr. Pepaj: Inspected or not, that's a different story, I didn't say [the wall] didn't need to be inspected, I said it can go the length of the property line.

Mr. Dickover: That's probably not accurate. But we'll defer to your legal expertise. As long as it's within the zoning code.

Mr. Pepaj: It's like a fence, you can put a fence on your retaining wall if it slopes down. He's trying to build a carport, not a two-story garage.

Chairperson Adams: But it's going to have weight on it. so we need to know that that retaining wall is strong enough to hold the weight and that we'll talk about in a month. Does anyone else have anything to say about this particular property? Ok, Mr. Dickover we need to hold this over because we do not have the information back from Orange County planning and I would like to ask our building inspector, do you want to inspect the retaining wall? I know they are saying Michael did but Michael put nothing in the file.

Mr. Felix: Well there's nothing to file because I didn't file for a permit to build [the wall] carport on there until I filed it with Dean.

Chairperson Adams: So you actually built that originally just as a parking area?

Mr. Felix: Yeah

Chairperson Adams: Did you build it with the intent to put a carport on it?

Mr. Felix: No, I decided after the work was done in June, I didn't decide until August, till winter was coming, that's when I got the permit from Dean, in fact [Rob] gave me the application.

Mr. Dickover: Madam Chair, just hold the meeting open pending the information from the county planning department, but there are other issues identified from the application that need to be addressed

Village of Walden
Zoning Board of Appeals Meeting
November 15, 2023

as well. The application sought two variances: to abbreviate them is to allow construction in the front yard where construction is prohibited in the required front yard and a sideyard variance to allow construction on what was then a garage to be 20" from the sideyard where the code required a minimum of 15'. Now that particular item, the sideyard requirements for an accessory structure should be 3' but since they are asking for greater relief than what was required we can amend that on our own realizing that the requirement is 3' from the sideyard. That's what the code requires for your accessory structure. We're talking about your garage. The application also needs a variance from section 305-13 to allow construction of the accessory building in the required sideyard because structures are prohibited in the sideyard and they are prohibited in the front yard. So they've applied for the variance to build in the front yard, but they also need it to apply to the sideyard. So that wasn't identified and the other one that wasn't identified is the front yard setback. They sought a variance to build in the required front yard where structures aren't permitted but there's also a front yard set back requirement and this being an accessory structure that will be 3' so your carport would have to be 3' back from the proper front property line and 3' in from the side property line.

Mr. Felix: And that's not going to happen.

Mr. Dickover: Well, that's the variances that you would need to do what you're asking.

Mr. Felix: Well, then I wish your building inspector who you have here would have told me that, and I'm sorry for getting loud, before I did the whole process when he was at my house. [When] I fixed the block.

Mr. Dickover: I thought I just heard you say you just put the block in, I'm not talking about the block, I'm talking about the carport structure.

Mr. Felix: So the carport structure, with what you're saying, I have to be all the way back from what the setbacks are going to be then it's done. There's no sense in going any further.

Mr. Dickover: That's your decision. I take it that you're withdrawing your application.

Mr. Felix became very irate and left the meeting.

Chairperson Adams: He needs to amend his application, do you think he understands?

Mr. Dickover: Yes. I have no idea.

Member Matisse: Are you saying he needs four variances?

Mr. Dickover: He needs four variances. Dean did a recalculation based on his requested 21x27 and he was at 29% coverage so he didn't need that variance.

Member Matisse: So these other four involve the setback?

Mr. Dickover: Two to build in required yards, front yard, and side yard. Two are setbacks one from the front yard 3' and one from the sideyard 3'. He's asked for 2/4. So because the legal notice didn't mention the others that he needs. If he was going to proceed with his application we would we would simply amend the application, re-notice the additional variances, and keep this public hearing open.

Member Sestrom: Keep the application open.

Member Scieurca: Should we try to get, do you want to contact him tomorrow? and explain what he...

Mr. Dickover: If that's what you want to do, then I would suggest you table the application and see if the applicant changes his tenor and if he does we would then proceed as I outlined with new legal notice, outline the additional variance, and keep this public hearing open.

Village of Walden
Zoning Board of Appeals Meeting
November 15, 2023

Member Scieurca: Because I don't think he understood.

Member Matise: He wouldn't be filing a new application, he's already paid that money upfront. So I think that's what got under his skin, I know that would get under my skin.

Member Sestrom: I don't think he did. I think he heard no, and that's not all that was said.

Member Scieurca: I would like to Motion to table his application and keep the public hearing open. Member Matise Seconded. All Ayes. Motion Carried.

Chairperson Adams: Rob, in the meantime could you please decide if this needs a foundation inspection because when it was built it was built as a parking area as opposed to a foundation

Building Inspector: [Agreed] INAUDIBLE

B.1 52 Walker St

Chairperson Adams: Next is 52 Walker Street. Motion to continue public hearing. Member Sestrom Seconded. All Ayes. Carried.

Now, everybody received a new survey from Mr. Pepaj who was showing to the right where he was proposing to have the sideyard set back as 10' to the right and 14' to the left. This variance request is for 1'. Normally we need 25' he has 24' for the house that he is proposing. Does anyone have anything they would like to add to the conversation?

Keith Lewis: I live at 46 Walker Street, which is the property right next door to where I proposed the building. My comment is I'm feeling very hamstrung and frustrated in this process only because I know there was documents added and I know there were conversations between you and the owner of the property. I formally requested those documents to make a comment to you tonight and as of [October] 27th I have still not gotten any answers. I made my request on [October] 24th and re-followed up with the village on the 27th and still got no response as to any new documents that would be foitable. So my comment is that I wish I could make a comment because I don't have any documentation to present my side of the case.

Member Scieurca: You made this request to the clerk?

Keith Lewis: As it was on [October] 25th, was my last correspondence from her was, "I'm going to contact the building department and when I hear back I'll let you know."

Chairperson Adams: What documents are you looking for?

Keith Lewis: At the last public hearing you had said there was correspondence between the board and him because he was in Florida, he was on vacation and there was clarification about what you were investigating so I believe that any documents throughout that would be foitable or apart of public record that I could use to make a public statement, a version of my side of the case and I didn't get anything. Not even so much as a denial of my request.

Chairperson Adams: That means they are still working on it. I'm sure they are going to do something. I'm sorry. If no one has anything further to add I would like to go into executive session for attorney client information please. That means everyone has to leave.

I will ask one more time if anyone has anything to add to this public hearing.

Mr. Dickover: So I have a couple of questions. Is Mr. Lustig here, the applicant? The owner? Thank you for coming, you came with a reputation. You were asked to provide, for the board, a copy of your deed

Village of Walden
Zoning Board of Appeals Meeting
November 15, 2023

which you have done. You also provided a copy of the title report, title certificate, results of the title search to the board which reported on two parcels one of which is the one that's before the board tonight. The report on the title search indicated that the title to that lot was not insurable. Which to the lawyers in the room means that when you got title from the McGees, it meant that the title company would not insure your ownership of this lot. And when we looked back through the records of ownership, it appeared that some number of years ago the McGees drew a deed for this parcel from themselves and conveyed ownership to themselves but there was no deed originally into the McGees. And this parcel that you're asking for a variance on appears in an ancient subdivision back from the 1900s where the parcel is identified as 3rd street. The filing of that subdivision map results in an offer of dedication of that parcel to the Village of Walden and gives to the people who are adjoining that parcel and would use it for access to public thoroughfare, it gives them a right of easement in that parcel. So the board is concerned with whether or not you actually have good fee ownership to this parcel. And we would ask you, if you can, or have an inclination to, to provide whatever evidence you may have that you have good fee title to this parcel. Because right now it appears from what you have given to us that you do not.

Mr. Lustig: Is this a standard procedure of this board to ask legal questions regarding title and fee and title. I have been here and my application is for a building permit. If there's a legal matter I will have my attorney address it with the buyer and we will handle it accordingly. But this is outside the scope of this board and I don't really plan on going down this road. I came here for a variance, I discussed it with the building inspector who said to apply for an area variance, by the way, I also gave you my taxes, I'm paying taxes on this property since its conveyance. I'm not a lawyer, I do understand some real estate intricacies, and I'm not going to refute anything you say sir, matter of fact I take it with my eyes open. I appreciate your advice and your assistance and I'll discuss it with my lawyer and any outstanding issues, we will resolve. However, if this is just an issue regarding the area variance I would be more than happy to do whatever I possibly can to give you the information you may need. I gave you in all honesty and with all forthrightness my information but unless you suggest I'm perpetrating a fraud on this board and the buyer, I would tread lightly is what I'm getting at. Unless you go to every single person asking for an area variance and ask for the title to their properties, title insurance and I'm being treated just like everybody else, reject it, do whatever you want. In my opinion, this is outside the zoning board's mission and I would suggest that we keep our eye on the ball and go forward and I appreciate that. And again sir, no disrespect, I think they are right on the nose and I will resolve this with my lawyer.

Mr. Dickover: Do you want the opportunity to have your lawyer address the board?

Mr. Lustig: No, I don't. I believe this is outside the scope. I'm here for an area variance. If there's anything legal about an area variance that I need to have addressed perhaps I will bring an attorney.

Mr. Dickover: Madam Chair, I suggest to the board that we keep this public hearing open and see if the applicant provides any additional information that has been requested for a period of thirty days, till the next board meeting.

Mr. Lustig: I'm sorry are you requesting additional information?

Chairperson Adams: Motion to table?

Member Mazzeli: Motion to keep this hearing open. Seconded. All Ayes. Motion Carried.

Mr. Lustig: Am I required to appear at that meeting?

Chairperson Adams: Yes, if you would like to. If you want to submit the additional information.

Mr. Lustig: I opened my file to you, there is no additional information. Unless, INAUDIBLE, made a parking lot, but once that property was too small they wouldn't give him an address. The 911 people gave me an address. [Slightly inaudible, hard to follow]

Chairperson Adams: We do not have a resolution for 83 East Main Street.

Village of Walden
Zoning Board of Appeals Meeting
November 15, 2023

Mr. Dickover: I don't have those drawings. I'll take the inquiry back. I don't have it with me tonight.

B. FORMAL APPLICATIONS:

B.1

B.2

B.3

C. DISCUSSION ITEMS:

Reminder about Continuing Education credits opportunities.

D. INFORMATION ITEMS:

Adjourned until the next meeting on December 27th, 2023 on the second floor at 6:30pm.

E. CORRESPONDENCE:

Chairwoman Adams: [Member Scieurca] is resigning and Member Mazzeli will be made a full member which will leave us with no alternates.

3. COMMUNICATIONS: None

4. EXECUTIVE SESSION: Yes

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

RESPECTFULLY SUBMITTED

Anisetta Valdez, Zoning Board Secretary