

Village of Walden
Zoning Board of Appeals Meeting
October 25, 2023

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

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

1. APPROVAL OF MINUTES:

September 27, 2023

Chairwoman Adams made a motion to approve the September 27, 2023 minutes with changes. Seconded by Member Scieurca. All ayes.

2. BOARD BUSINESS

Chairwoman Adams: I will ask anybody who has a relationship in any way, shape or form with anybody, you need to recuse yourself before the vote, please do it, before we go into the session.

A. PUBLIC HEARINGS:

A.1 83 East Main St

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

John Cella: We were here last month requesting an area variance. The rear yard setback, the lot coverage. They are both preexisting nonconforming and we are looking to construct the second floor on the building. Last month, I did say that the variances were previously granted for a previous application. I was told that was incorrect information. So there were never any variances issued for this property. Just received the Planning Board approval for the office use in the building. We now are proposing a second story for caretaker accessory apartment.

Chairwoman Adams: Dean sent us a letter that they are no variances and that the building was there prior to January 1954. Therefore it does not fall under the classification, it's a legal nonconforming. It's now B4 zone, change from light industrial in 1954. We received your deed and everything was in order there.

Member Sestrom: What is your plan for this apartment? Are you going to rent it out or are you going to live there yourself?

Chris Miller: I'm going to rent it out. I have a lot of staff that works for me. I have an office and the garage is my workspace now and my washer and dryer.

Chairwoman Adams: You just confirmed that it is going to be an accessory unit to the business, not an open rental to the general public. It will be somebody who you employ and this person will be a caretaker.

Chris Miller: Correct.

Chairwoman Adams: And this person will have keys to the whole building and be called if there's an emergency, because you are sitting on the edge of a public park where there's children. So, if there was

Village of Walden
Zoning Board of Appeals Meeting
October 25, 2023

an emergency, we would need a contact for the police and the Building Department in tune with that, whoever lives there because your employees may change. So, you would update them.

Member Matisse: Wouldn't that be listed on the landlord registry? Contact information would be there and would really have to be you as the business owner as the main contact. Because it requires contact 24/7.

Chris Miller: Correct.

Member Matisse: Downstairs use would be considered a non-nuisance industry?

John Cella: Office.

Member Matisse: What kinds of cleaning supplies would you have at this place?

Chris Miller: Residential stuff that you have in your own home. We do a lot of green cleaning. Right off hand, there would be Pledge on the shelves there, Pine-Sol. There's a washer and dryer.

Member Matisse: I'm only asking because Sweeney's had a fire, spontaneous combustion. It wasn't turpentine, it was something.

Chris Miller: No, it's the same stuff that you would use in your home. That you would clean your own house with. Nothing that is going to combust.

Member Matisse: Are you going to have natural gas?

Chris Miller: Natural gas. That's what we use now.

Chairwoman Adams: Looks nice. You've done a nice job cleaning it up. This is really Planning Board, but I'm just curious, is the staircase going to go from inside? I saw the door pictured on your layout on your site plan. Does the staircase go in from that door?

Chris Miller: No, it would be on the outside.

John Cella: *referring to plans* this is the building, this is the street here, chosen method would be inside the setback lines on the side.

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

B.1 52 Walker St

Member Sestrom made a motion to reopen the public hearing for 52 Walker St. Seconded by Member Sciruca. All ayes. Motion carried.

Alex Pepaj: You have requested Ray to be here, but he couldn't be here. If you want to move forward without him here, or postpone it for next month. I didn't want that to be a factor of the decision.

Chairwoman Adams: He was given the wrong date in the beginning. He is supposed to be coming back in tonight from his vacation or wherever he is at. I think we can answer a few questions first. And he did supply us with a lot of information as to how that lot came to be. Dean wrote a list of all the things that we needed. Mr. Lustig responded to the list of things by sending us copies of deeds and various other information. He answered each of our questions.

Member Matisse: Some of the information that was sent doesn't pertain to lot that he's talking about.

Village of Walden
Zoning Board of Appeals Meeting
October 25, 2023

Member Scieurca: I agree.

Member Matise: The deed that he provided was for Hogan's lot.

Alex Pepaj: I think he provided some things saying I'm not mistaken that Hogan has no right away.

Member Matise: No we're not talking about that lot. He provided for the other lot.

Chairwoman Adams: First, I want to confirm, what is the size of the house?

Alex Pepaj: The way the house is, I had asked for 26 by 40.

Chairwoman Adams: Originally you had asked for 30 by 40.

Alex Pepaj: Correct. That's the building area as in for me to move around. You need room. It's called the workability area. Let's go from that to what it says on the plan. The plan that I drew up is 26 by 40. The plan that I have here, 26 by 40.

Member Matise: That does not include any extensions like stairs or anything?

Alex Pepaj: No. All the stairs on the inside. This is the foundation. What you saw on the plan the last time, the house is accessed from the front. There was no side stairs, no side porch.

Member Matise: Is this similar to any recent house?

Alex Pepaj: There is one, I think it's 46 Oak Street. It's the three new ones, the first one on the right going down.

Member Matise: Is that a 2 story?

Alex Pepaj: It's a 2 story.

Member Matise: Are you building the one on Ridge?

Alex Pepaj: Yes, the one on Ridge. Have you seen that?

Member Matise: Is that the same size?

Alex Pepaj: Yes.

Member Matise: That's a 2 story.

Alex Pepaj: Right. But this has a garage because of the hill, this one doesn't. This one will be flat on it because you can't have a garage. The garage would be the floor. It's a bi-level, but long ways. When you had it on the hill, you can have a walk in garage.

Member Matise: When you're building on Ridge, it's set up around the dirt. You didn't dig down. It almost looks like a 3 story.

Alex Pepaj: Correct. That same land can come down to the level ground. You just eliminate the basement altogether. You have the garage alone, and then all that area becomes the first floor and then you have the 2nd floor.

Member Matise: The house you're proposing won't have...

Village of Walden
Zoning Board of Appeals Meeting
October 25, 2023

Alex Pepaj: 2 story's. For example, Hogan's house, if you're facing the lot that would be probably 7-8 feet taller than this house. This house would be about 7-8 feet taller than the house next door, which is a bi-level. That house is like 55 by 30. This house is going to be 26 by 40.

Chairwoman Adams: Gas or electric?

Alex Pepaj: Gas and electric.

Chairwoman Adams: You're asking them for a one foot variance?

Alex Pepaj: Correct.

Chairwoman Adams: If you were to get this one foot variance, how would you place the house? Would you make it 10 foot on one side and 10 on the other?

Alex Pepaj: If you're facing the lot, the house would be the closest, it would be ten feet on the right. So, they have ten feet, I would be leaving ten feet there, that would be a 20 foot opening in between. But since Hogan's has zero property and I'll be leaving 15 to this side, so it looks a little bit more even.

Chairwoman Adams: You would actually be leaving 14.

Alex Pepaj: Correct.

Chairwoman Adams: I wasn't sure if you're going to do 12 on each side.

Alex Pepaj: I could. What happens is that I'd be getting a lot closer to Hogan's house. My opinion, it would be a better set up to have equal space.

Chairwoman Adams: You would be proposing 14 facing the house, 14 to left and to the right.

Alex Pepaj: Correct.

Member Scieurca: In an effort to not be so close to the neighbors, set the house back further? Can you reconfirm how far off the back property line it has to be?

Alex Pepaj: 30 feet from the property line.

Member Scieurca: Technically, you could move the house back further with a longer driveway so that you're not on top of the other houses.

Alex Pepaj: We could potentially. That's something that I'm willing to work with. There is a limit of water and sewer lines. You have to make pitch and there's a few things to be considered, but we could set it back a little bit further. That would be between a discussion between me and Rob, once I've seen how deep this sewer line is on the road and how much pitch I need to get from the house to make because it's gravity. I need a certain amount. If I go too far back, I won't make pitch at all. Everybody wants to be as close to the road as possible, but it is something that I'd be proposing to once I have established the sewer line is on the road and nobody knows the depth of it until you open it up. If it's at the depth that I need there's a minimum of a quarter inch per foot of pitch that we require for the wastewater to go. If we could meet it for a length of a couple of 10 feet pipes, I'd be more than happy for 50 foot setback. That wouldn't be an issue.

Member Matisse: Is the sewer on that side of the street?

Village of Walden
Zoning Board of Appeals Meeting
October 25, 2023

Alex Pepaj: It's in the middle of the street. Water and sewer is in the middle.

Member Matise: Council, is that a concern for us to know where they're really going to put the house in terms of the depth of the water?

Attorney Dickover: I think Christine's comment is probably well taken. If the board believes it's setting the house back further than is shown on this plan is going to alleviate some of the adverse effects on the neighbors and/or the neighborhood. You could ask the applicant to set the house back as far as the sewer slope will permit. Thereby reducing the adverse effect.

Member Matise: That would be factored in.

Attorney Dickover: That has a play on the appearance in the neighborhood. If this house is set back further than everybody else. That might be an adverse effect in the neighborhood. I don't know. The answer to your question is yes. It's a valid consideration for the board.

Alex Pepaj: It goes both ways. Both homes are set up usually on the line. If there was like a development, you can set your house anywhere you want.

Member Matise: Some developments stagger.

Alex Pepaj: Correct. In the village, pretty much everybody tries to in order because you have to have, according to DPW, the public water, they come and inspect the water and sewer line. Otherwise it doesn't get approved.

Attorney Dickover: To the same point, if you move the house back, you're now going to have the neighbors will now have somebody living in their backyard. Not their backyard, but in their view of their backyard. And sometimes that's not a favorable thing to do either.

Member Matise: If somebody goes in and buys the house with that as a reality then that's their concern.

Attorney Dickover: I'm not talking about the person buying this house. I'm talking about the existing neighbors. Now, having somebody living in the view of their backyard, it may be impinge on their privacy.

Member Matise: Having somebody else's backyard next to your backyard is an invasion of your privacy too.

Attorney Dickover: Not as much as people looking out their windows into your back windows.

Member Matise: This is of course the reason for the setback. When you live in the village and you live in the older neighborhood, the R5 neighborhoods, yeah, sometimes people are looking. So, you keep your blinds closed or when you want to do something you don't want them to see you make sure you have a grapevines. It's just a reality of life in the village. I don't see that as a problem. I only have a five foot setback on one side and it's tight. My neighbor's house, she has a normal set back. It's a newer house. The houses are close together.

Chairwoman Adams: Do we want to table this until Mr. Lustig can appear here next month?

Member Sestrom: I say yes.

Sean Borg: I understood that it's an R4 zone, correct? And it would need a 70 foot lot to put the actual house onto it? That's a 50 foot lot. You said an R4 zone needs the footprint of the house needs to have a 70 foot lot, is that correct?

Village of Walden
Zoning Board of Appeals Meeting
October 25, 2023

Chairwoman Adams: Not necessarily. It depends on the lot. That lot was created in the 60s. From what we have been able to trace. There is certain information that is being questioned in our packets. It may go back to the 60s at that point. If it's before the 70 foot requirement, then it doesn't matter. Right now, there's a deed and it's a real lot. The Zoning Board doesn't create the zone or the code. We just give people relief from the code. In this case, he may need to ask for relief from that requirement, 70 foot requirements. But we're not sure of that, because at this point we have a deed that gives a section, block and lot number that has been established. It's on the deed. It's recorded in Goshen. It's recorded in the assessor's office. They've been paying taxes on it as a building lot. We're investigating to see the roots of all of this, where we came from. If it's a legitimate building lot that had a deed prior to the code requirement for 70 foot, then there would be no variance needed.

Sean Borg: It was a proposed street and then bought.

Chairwoman Adams: This is all under investigation. It was a paper street. We have to decide and the Village Manager and the Village Attorney is working on investigating it to determine all of that. If they determine that it has to be 70 foot then Mr. Pepaj and Mr. Lustig will have to come back for a different kind of variance. But right now, as a legal building lot, what you all have to remember is according to this it's a building lot. Had they built a house that was 25 by 40. They would have walked in to the Building Department. They would have shown the deed, the plans. They would have gotten an approval permit. You wouldn't have even known until the trucks got there to start digging. Because they need a variance we had to look a little further into things. The Village Manager and the Village Attorney will be doing the research on this to determine where we stand on this.

Keith Lewis: As far as the notifications about these meetings, because we were never notified.

Member Matisse: You would have been notified for the first meeting.

Keith Lewis: I was notified for the first meeting.

Member Matisse: That's the notification. You would not have been getting a notice for tonight's meeting.

Chairwoman Adams: When we do a continuation, which we will probably be doing in a few minutes, to the table until the next month. At that point, we tell you it's month. Now, you might want to stick around because we may have to change next month's date.

Chairwoman Adams made a motion to keep public hearing open for 52 Walker St with the request for Mr. Lustig in attendance. Seconded by Member Sestrom. All ayes. Motion carried.

Chairwoman Adams: We ask that Mr. Lustig to show up and we will also ask Mr. Revella where we stand as far as the village information is concerned and we'll have to take it from there. If the information is not available, we may have to table it again.

B. FORMAL APPLICATIONS:

B.1 83 East Main St, Area Variance

The Board reviewed aloud the 5 factors associated with an Area Variance:

a. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance?

Chairwoman Adams spoke for all by answering no.

b. Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance?

Chairwoman Adams spoke for all by answering no.

c. Is the requested area variance substantial?

Village of Walden
Zoning Board of Appeals Meeting
October 25, 2023

Chairwoman Adams spoke for all by answering no.

d. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Chairwoman Adams spoke for all by answering no.

e. Was the alleged difficulty self-created?

Chairwoman Adams spoke for all by answering yes.

Member Sestrom made a motion to approve the variance and request attorney to draft a resolution with conditions as discussed. Seconded by Member Scieurca. All ayes. Motion carried.

B.2 52 Walker St, Area Variance

Tabled

C. DISCUSSION ITEMS:

Chairwoman Adams: Many, many years ago, we had this nice sized zoning chart. When I was in John Revella's office, they have the one that's about this big now. I was wondering, can we get them this size so that we can get work with them? It's so nice to be able to look and see what different areas are.

Building Inspector Wallner: Definitely. I found that on the Orange County website and if you'll notice on the maps that we have posted in Mr. Revella's office, as well as in the Building Department, they're not signed or dated, but it is the latest version they have. It does not include the annex of the Orange County Transit and across the street. So, it's not exactly accurate.

Member Scieurca: 11 by 17

Building Inspector Wallner: How many would you like?

Member Scieurca: One for everybody.

Member Barilli: How does it feel about meeting here? I know Bill likes it here better.

Chairwoman Adams: We did ADA compliance.

Member Sestrom: *inaudible* upstairs, if that's okay, because there are microphones and I had some adjustments made to my hearing aids. If you choose to go back upstairs, I'm not going to argue with it.

Chairwoman Adams: If you're willing to withdraw your request.

Attorney Dickover: Don't do it. This room is warmer in the wintertime, it's cooler in the summertime and you can actually hear people.

Member Sestrom: Sound is worse here?

Member Barilli: I have a harder time here actually. Only because talking different volumes and it's a little echoey. But it's the same up there.

Member Matise: And you're further away there up there. I'm fine with this.

Member Barilli: I'll tough it out for a while.

Chairwoman Adams made a motion to enter into executive session for attorney client privilege.

Village of Walden
Zoning Board of Appeals Meeting
October 25, 2023

D. **INFORMATION ITEMS**: None

E. **CORRESPONDENCE**: None

3. **COMMUNICATIONS**: None

4. **EXECUTIVE SESSION**: None

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

RESPECTFULLY SUBMITTED
Marisa Kraus, Zoning Board Secretary