

Village of Walden
Planning Board Meeting
February 22, 2021

Chairman:	Stan Plato	Absent
Members:	Jay Wilkins	Absent
	Lisa Dore	Absent
	Jason Trafton	Absent
	Zac Pearson	Present
	John Thompson	Present
	Jennifer Muehlen	Present
Building Inspector:	Dean Stickles	Present
Village Attorney:	Robert Dickover	Present
Village Engineer:	John Queenan	Present
Secretary:	Marisa Kraus	Absent

Member Pearson - Called the meeting to order at 7:30pm.

1. APPROVAL OF MINUTES:

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1

B. FORMAL APPLICATIONS:

B.1 Architectural Review Board, 81-B West Main St, Sign

Member Thompson made a motion to adjourn Planning Board meeting. Seconded by Member Muehlen. All ayes. Motion carried.

Member Thompson made a motion to open the Architectural Review Board. Seconded by Member Muehlen. All ayes. Motion carried.

Member Thompson made a motion to approve sign as presented. Seconded by Member Muehlen. All ayes. Motion carried.

Member Thompson made a motion to close Architectural Review Board. Seconded by Member Muehlen. Ayes. Motion carried.

B.2 Overlook at Kidd Farm, Site Plan/Subdivision

Jerry Jacobowitz: I think we're close to a conditional final approval and hopefully that's what we discuss tonight and hopefully we'll get the board to approve a conditional final approval. The conditions being the various items that your attorney has identified and a few of which are things that can't be satisfied at this particular moment. There was a long review letter from your engineer. Those items have been addressed. I believe all the changes have been reflected on the plans that have now been submitted. Your attorney has reviewed a great deal of the documents. I don't have any dispute with him about the changes that he wants made and we've tried to make most of them, but due to challenging conditions, getting all the paperwork done has not been as fast as I would like.

Engineer Queenan: The way that I understand is that the applicant would like the Board to approve as a whole. And then approve section 1. *inaudible*.

Attorney Dickover: He has submitted a lot of documents. Completed probably 1 review of that a number of years ago, did a second review of them about a week and half ago. We're now reviewing the third round of that. John and I have gone over a draft of the resolution for conditional subdivision and

Village of Walden
Planning Board Meeting
February 22, 2021

conditional site plan approval. Mr. Jacobowitz has seen this, but we're still in the process of tweaking it. In the review today, there still seems to be some question with respect to the approvals that were to be obtained by the applicant prior to this time. Mr. Jacobowitz has told us that he's satisfied with those, but I don't know that we've seen evidence or the letters of approval. Jerry, with respect to that and we're talking about specific conditions to preliminary approval for the site plan, could you get to us the letters or permits, with respect to the wetlands delineation, OC Dept. of Health subdivision approval, OC Dept. of Health water main, sewer main and so on.

Jerry Jacobowitz: A-L are all they're all done except the F. F is something that the Village Board of Trustees has to do once you folks grant a conditional final. One of the conditions is to satisfy item F, which is the map that shows where the affordable housing units are actually going to be located. For some reason, your terms of your preliminary said that's something that the Village Board has to look at. It's been submitted to them multiple times and we're just waiting for them to give it attention. The plan is exactly the one that you all approved here at the Planning Board.

Attorney Dickover: That item calls for identification of units on the plan, which you have done and have acceptable descriptions with respect to the deeded units and that was what needed to be reviewed and approved by the Village Board. If they have not done by the time this comes up for adoption by this board, we would make it a condition of the final approval.

Jerry Jacobowitz: They haven't as of yet. Hopefully, you will grant your conditional final and that would be a condition and then we'll have to go back to the Village Board to find out what we need to do to get their attention.

Attorney Dickover: The other one that is of interest to this board is I don't know if the Architectural Review Board reviewed and approved the architectural renderings. This is so long ago that I don't know the saw that.

Jerry Jacobowitz: Long ago, we showed you renderings of some typical appearances of elevations of the buildings. They weren't the buildings that would precisely be built here, because we did not have a builder yet and every builder's has his own ideas about what kind of gingerbread they want to put on the buildings and so on. One of the items you have said is that the garage doors should be varied. Shouldn't be a uniformity of garage doors. That's something I think that's in the paperwork someplace. That's not a problem. The ARB, which is your board acting as a review for architectural compliance, will get to say yay or nay when we get those actual renderings and elevations of the buildings. So that would be another condition of the final approval.

Attorney Dickover: Just to remind you that preliminary approval on this call for the Architectural Review Board to approve those plans, there's going to be a change with respect to that, which is fine, it's your prerogative to do that. So, if you want to wait on the Architectural Review Board, the approval could be conditioned upon that. There could be a condition that they would have come back to this board with architectural renderings for review and approval before they continue.

Jerry Jacobowitz: We fully anticipate we have to come back with those actual renderings.

Member Pearson: We have to see it anyway. The ARB is going to have to see the info, I don't think it matters that it's a condition.

Attorney Dickover: We'll take that out of being a condition of the final approval. Jerry, can you just tell us where you are with respect to the highway work permit and the route 208 entrance?

Jerry Jacobowitz: They have issued an approval letter of some time ago, and since then they've had some changes in their specs with respect to that. There's been a submission made to DOT with the revised information that they have requested. The technicality for that is that the request had to come

Village of Walden
Planning Board Meeting
February 22, 2021

from the Village and to the DOT. I think that Ross Winglovitz has made the arrangements for that. Did he send you the package?

Building Inspector Stickles: I haven't received anything.

Jerry Jacobowitz: DOT wants the submission to come via the Village.

Member Pearson: Why is the Village tied to the DOT permit?

Engineer Queenan: We don't get involved with your DOT permit. I don't know why the submission would come from the Village.

Jerry Jacobowitz: That's what the engineer who got the review said. If that's not the case, terrific. Then we don't need to bother you and don't need to wait for you to do something.

Engineer Queenan: Usually, once the Village submits the plans under SEQRA, it's up to the applicant then to go secure the highway work permit.

Jerry Jacobowitz: It was all submitted. That's what this particular engineer is raising and rather than fighting with her or making a submission to avoid having any dispute with them, but they have the entire package of this project.

Engineer Queenan: What's the status?

Jerry Jacobowitz: I believe it was submitted. There was an e-mail February 5th to Dean. *read email* the engineer is Cindy Zacharia.

Engineer Queenan: What the state is asking for is the Village's SEQR finding statement and proof of lead agency designation. It goes on to say they received a letter in 2014, which is not completely valid since it is six years old. Basically, many changes have taken place within six years. Essentially, they want to close their SEQRA.

Jerry Jacobowitz: It's easy enough to send those set of findings.

Attorney Dickover: Where are you at with respect to the Attorney General's review of the homeowners association? I haven't seen that again from you.

Jerry Jacobowitz: The Declaration of Condominium, the Bylaws and Rules and Regulations and the provisions that imposes liens against the property have all been done. There are a couple of revisions to the Declaration that you pointed out that we've made. But we cannot submit to the Attorney General until there is a sponsor for the project and we are not going to be the sponsor. We're going to dispose of this by sale and that buyer has to do the AG. There's a personal questionnaire, a financial questionnaire and there are other things dealing with whether you can be a sponsor and that has to be done based on who the sponsor developer is going to be.

Attorney Dickover: This is going to have to be a condition of final. I think we're done with the bylaws, the declarations. We're just tweaking at this point, we're substantially done with that. Same thing with respect to the other offerings. Has there been any change in your development plan? You're still going to proceed with section one first, and so you're asking this board to approve section one as part of this approval?

Jerry Jacobowitz: Yes. The overall plan approval, 54 seats in the roll and then there's an 11 sheet, section one. We're asking that you approve both of those.

Village of Walden
Planning Board Meeting
February 22, 2021

Attorney Dickover: Those are the only particulars I had with respect to the resolution as it's been drafted at this point, but it really needs to be finalized and this board, of course, has to look at it to make sure you're comfortable there. The applicant is asking us to grant approval. Frankly, I'd rather see you grant approval to a written document that you've had the chance to review and tweak. In the meantime, to continue this dialog, to hopefully getting into a form ready for a review and perhaps adoption at the next meeting. Jerry, I ask you to just be in touch with me, get me the final documents, the declarations and things that we've been working on. There have been some additional changes and John and I have made, so we'll share that with you and make the changes that we've talked about this evening as well. Get conditions where they belong and try to recite accurately what you have had accomplished and have not and the conditions of the approval.

Jerry Jacobowitz: There's been a lot of back and forth, a lot of corrections he's made. We've adjusted to those and we're probably 90% home free. We'll get another 5% done, as he suggested. But there will be 5% of things that will be conditions of your approval by the very nature of the structure of this type of project. Can we set a goal to try to get this done so that the board can get it in a timely fashion before their next meeting?

Attorney Dickover: Yes.

Engineer Queenan: The meeting is March 15.

Attorney Dickover: I'm going to finish this Thomas Bairdorow, probably. So, you're going to have it back from me Thomas Bairdorow or Wednesday and then maybe you'll be back on your own clock. If you'd like to get your comments back to me and whatever tweaking you want done. When does the board typically ask for their submissions?

Building Inspector Stickles: At least 10 days before the meeting.

Engineer Queenan: March 5th.

Jerry Jacobowitz: Thank you very much and we'll do everything.

B.3 Falcon's Rest, 126 North Montgomery St, Site Plan

Zach Peters: We worked on addressing some of the comments from John, as well as provided approval letters from the DOH for the water connection and there was a conceptual approval from the DOT for the entrance *inaudible* that part is still up in the air.

Member Pearson: You have a temporary permit for to go through construction. You just can't do any of the physical improvements to the entrance until the land donation takes place.

Zach Peters: Correct. They won't issue any permits until then.

Engineer Queenan: The way I understand it is that the sidewalk has a land donation. DOT does not issue work permits until the land donation is completed for the site. My discussion with DOT, everything else is to their satisfaction. Everything is just fine except the land donation. That process takes 18-24 months. What the DOT told Zach is that they would issue of temporary construction permit and at such time the land donation is complete, they would then issue a highway work permit. If the land donation for whatever reason doesn't happen, this permit can be broken into two. They can apply for utility permit for water and sewer, drainage hook ups. And then the applicant would have to come back to this board, if donation doesn't go through to seek an alternative for whatever layout for sidewalk. We did seek alternatives to that. For instance, could that sidewalk be placed in an easement and held by the Village for a certain amount of time? DOT said no. It has to be owned by them, however, they don't maintain. The way I was looking at that is if they never get the land donation, the rest of the engineering, the rest of the design is valid and the state has essentially signed off on it.

Village of Walden
Planning Board Meeting
February 22, 2021

Attorney Dickover: Isn't the unit count tied to the existence of that sidewalk? Because it was an additional amenity that gave them additional bonus? If for some reason the sidewalk or the land donation doesn't get done, the sidewalk goes away, the unit count and the construction of this building is going to be off.

Engineer Queenan: That's why they would have to come back from an amended site plan to take the sidewalk off and then that would trigger whatever density that they had.

Member Pearson: What does that amount to?

Zach Peters: I think that I would look at the list of amenities.

Member Thompson: What's was the adjustment to the units?

Lou Donnelly: I actually exceed what we need because of all the amenities.

Engineer Queenan: We have 11 amenities. I don't recall the exact wording from the zone change. I think the maximum density occurred, I want to say 10. It may not have an effect, but I don't know for sure.

Attorney Dickover: The way that we've conceptualized dealing with this problem, assuming the applicant wants to proceed with the land donation and the sidewalk and they want to get going with your construction, is to simply put a recitation of these facts into the decision and have the applicant receiving the approval acknowledge that they're at risk of losing a unit count and at risk for having to come back to this board for what would amount to an amended site plan and redetermination of a unit count. I can't think of another way to do it.

Zach Peters: We would like to take the number of units that's proposed, by just building size and site plan out. If for some reason it did end up where we had to knock down number of units, I think there are revisions inside the building instead of having to make a library or some sort of open space that wouldn't necessarily impact the layout of a building.

Engineer Queenan: If it goes by for every amenity that you get, it's 11 units. You would lose 6 units.

Lou Donnelly: I spoke with the DOT, myself and they were very helpful. *inaudible* problem is, it's going to take 9 months to get to that point. Whatever we need to do to make it right.

Engineer Queenan: I spoke to the state, they don't have an issue with the design. It's just this process.

Lou Donnelly: I'd be willing to take the chance that if I had to reduce the unit count, I would do that or we'll change the amenities.

Attorney Dickover: It would require coming back to this board for an amended site plan application. We have been working on a draft resolution for quite some time. We have it in such a form that I was comfortable sharing it with the applicant's representatives and we did that late this afternoon. I doubt very much that they had a chance to look at it in any meaningful fashion. But I think between now and the March meeting, you can get a review of that and get your comments back to us. Perhaps this would be ready for circulation to the board members and perhaps action on it at the next board meeting.

Building Inspector Stickles: This still has Architectural Review to be done and a letter from the fire department.

Attorney Dickover: I thought we had architectural renderings on this project.

Village of Walden
Planning Board Meeting
February 22, 2021

Building Inspector Stickles: They showed pictures, but I don't believe the board ever approved of color or design.

Attorney Dickover: We could treat that also as a condition to the approval and if we get to that next month. Get your application for the ARB review, it will be put on the agenda.

Zach Peters: We'll work on the ARB and try to get that in and review the resolution.

B.4 Orange County Transit, Site Plan

Anthony Mirando: There are two concurrent paths here that we're following. One of which is for the Orange County Transit improvements on the existing property. *inaudible* In addition to that, as part of this process, the sewer and water connection details have been added to the site plan set. That has been included in this package for you. As a couple of weeks ago we submitted an updated package, you would find materials responding to the remaining comments. We've also filed again with the outside agencies, including the Village DPW and so far as they were reviewing the water and sewer connection details. We previously submitted the plan and again to the DOT, DEC and DOH. We've gotten minimal feedback in terms of details to the plans. Maybe because they're waiting on the SEQR process. Our goal is to move forward with the SEQR process and bring that to a conclusion. Orange County Transit put some effort into trying to find ways to get out in front of any comments or questions that the board might have. One thing to note is the plan no longer includes a subdivision. The applicant, Orange County Transit is decided to remove those trailers that were close to an internal lot line and those will be coming off. So at this point, it's a site plan application only.

Zach Peters: Orange County Transit removed the lot of change application. The trailers are going to be removed. The applicant is going to use the existing office areas on the site for the employees. He has removed the portable restroom trailers. Revisions to the landscaping, including a wood fence and bushes on the outer side of that fence. Also prepared a lighting plan on the eastern portion. Showing proposed fixtures angled to 45 degrees. It's going to be throw the light towards our side and not having this spill over. I reached out to DOH for feedback from them but they were really waiting for some information from SEQR.

Engineer Queenan: Our office is still reviewing. Once we finish, should probably be the next day or so, we usually go to Public Works to go over it as well. Couple comments, little technical, but the water meter pit is in the center of the access drive. Same thing with the pump station. The lighting fixtures you have proposed, you have them at 30 feet height, is there a reason?

Zach Peters: They are generally consistent with the fixtures that are there in terms of height. *inaudible* the fixtures that are proposed are the same fixtures as are there.

Engineer Queenan: Currently there's a like a big spotlight.

Zach Peters: Almost all the fixtures on the easterly side *inaudible* there's also some older spotlight like fixtures that are primarily on the westerly side, some do face that way. I don't have exact specifications on those because of how old they are. Essentially anything that was existing is proposed to remain, with the exception of some of the LED fixtures, which we are going to readjust the angle at 30 feet.

Engineer Queenan: That's fairly tall.

Zach Peters: Some of the existing fixtures, I think are primarily at 25, 30 feet. So, we propose like that to be consistent.

Engineer Queenan: We have a lighting plan, so we have something to work on. We'll take a look at some of the foot candles. We're probably approaching nexus of five spaces, which is more on the brighter

Village of Walden
Planning Board Meeting
February 22, 2021

side. I think as we progress, I'll say to the east, we may want to get those down a little bit farther towards the residential.

Zach Peters: I can look at an alternative fixture. The last plan, I think the height was 25 feet. But that had a direct spot right under the fixtures in excess of 10 foot candles. We just adjusted it up a little bit.

Engineer Queenan: Typical strip mall commercial applications, you're looking at somewhere in the range of 20. As you get down towards residential application, you're looking at 15-18 foot range. I'd like to stay in the 15-18 foot range.

Zach Peters: We can look at that. I think that with the lower fixture will depend on how bright it is, you might have a stronger intensity right underneath that fixture. The other question I have is, is that going to be just our proposed fixtures or is that going to be taken in account?

Engineer Queenan: Has the applicant changed the fixtures that were there? They are gigantic spot lights. One was in the rear corner and one was behind the car dealership. They were just hoisted up and fired out there.

Zach Peters: I don't remember exactly what the situation was. I know he was approached by one of the electric providers about changing out the fixtures for a cost savings.

Engineer Queenan: I know the Village received a complaint about a large spot light in the corner shining across. I was wondering if that has changed since or is that part of this proposal?

Zach Peters: I know there were fixtures there and John said that they were on a switch.

Engineer Queenan: We'll take a closer look at the lighting. As for landscaping, they included that berm along the fence. It's a 4 foot earth and berm, which will then have an 8 foot high fence, wooden fence placed on it.

Member Pearson: 12 feet and the plantings go on the Winum's side?

Engineer Queenan: Yes.

Zach Peters: There's this existing chain link fence along the property line right now. We are proposing berm on our side of the fence and plantings on the eastern side of the fence.

Engineer Queenan: Then you also reversed some of the parking. So, most of the parking on that property line will be passenger car?

Zach Peters: Yes, the original site plan application had employee parking where it is now, over to the middle of the site and then busses all the way up to the property line before the berms. Over the course of the review, we added berm and shifted the parking, so it is in excess of 25 feet from the property line and relocated where employee parking is so that all the passenger cars are going to be closest to the berm.

Engineer Queenan: I think it was a good change. And with the berm and the fence, you'll block any passenger car headlights.

Member Pearson: Is the existing chain link fence staying?

Zach Peters: We're going to keep the existing fence more or less along the property line. The berm is going to start a couple feet up the property line.

Member Pearson: The existing fence on your property? Isn't it falling over?

Village of Walden
Planning Board Meeting
February 22, 2021

Member Thompson: You got to get rid of that fence. Its terrible looking. You're putting up a brand new berm, brand new fence and you're going to leave that dilapidated chain link fence.

Engineer Queenan: Is it your fence?

Zach Peters: I'm assuming it is.

Engineer Queenan: You can just remove it and tie the new fence into the one that's on top of the berm.

Zach Peters: I don't think we have an issue with removing it.

Member Pearson: How much of a snow storage area do you have? I drive by there every day and see that there's a lot of snow on the eastern property line.

Zach Peters: The applicant said it would be sufficient. We are showing a 24 foot designated area. We can look into that is that's a concern.

Member Pearson: The feasibility of the item 4 as parking. It's very desolate around the site and the pot holes and how during the winter months, there's a lot of tracking and goes out. I know you haven't heard back from the DOT, yet. What kind of thickness are you dealing with as far as item 4 out there being able to support the bus traffic and the plowing? Is there an edge that you're providing between item and asphalt?

Zach Peters: We have a specification on the plans for the area for access isles. The Contractor will have to confirm the depth of item and then supplement it to minimum thickness. That's something that we can also look at.

Member Pearson: If it's not sufficient in areas, you're going to have to dig out and put back item 4.

Zach Peters: Basically, going have to provide a minimum depth. We haven't done any testing.

Member Pearson: I'm just curious, you have this entire area that's just wide open area. There's definitely mud being tracked. So, how much item do you guys really have and what are you really driving on out there?

Engineer Queenan: Going to take a closer look at lighting. Covered the landscaping, the berm on eastern property line. I don't know if there were any other areas, maybe Olley Park or something that would be considered. Last item, I think if you can touch on is the noise study.

Zach Peters: We had our consultant complete a noise study.

Thomas Baird: With the noise that is there on site, have to establish a baseline. What we did was go out and do a measurement early in the morning, 5:50-6:50 was the range. That was when all the buses were started idling. Also very important to make sure that there weren't any reduction in bus use due to other reasons. Set up a noise meter to get existing levels as close to the property line on the eastern side as possible. Now, there are rows of buses there. Was not able to get to the property. Came out in front of the busses, which was about 100 feet. Took a measurement and that measurement took 4 major readings. One is the LEQ. That is equivalent sound level that your ears would hear over one hour period. We also looked at what's called the L90. That's a noise level that's exceeded 90% of the time. We have the L10, which is 10% percent of the time, its peak noises. All that came out with the minimum level recorded over the one hour range from 48 decibels to 41 decibels. With the 48 being right away first thing in the morning and a 41 as the buses left during the that one hour period. The L90 level is the level that is used in New York State DEC guidance and New York State DOT Federal Highway Administration as what they call the

Village of Walden
Planning Board Meeting
February 22, 2021

ambient background sound level. That measurement came out to be 47. 47 and 48 of the minimum level that it received are essentially the same level. Our L90 level we got, corresponded with the minimum source. The LEQ of 52 decibels, primarily that was for the traffic on Rte. 52. We were 175 feet from the road. 170 feet from the road for that 52, moving to 75 feet from the road, we would be at 55. This level would be across all of 52, all the way down to the facility and past the facility. As you come back from the road, the noise kind of stays the same. The buses that are there now had a minimum of 5 decibels of attenuation to that. We could say we would be at 41. I didn't take measurements where the buses were because I wouldn't get a good number without any kind of obstruction. We then took the levels that would be part of the proposed site and the buses were configured in the same location as they were for the proposed plan while I did the measurements. The berm itself will provide attenuation. The vehicles that are going to park along that berm are high enough that you get any substantial noise from those vehicles. All in all, we're not going to have any kind of impact above 45 at the property line once the site is constructed.

Member Thompson: That's just from engine noise?

Thomas Baird: That's buses that are idling, running and leaving while the whole process rolled.

Member Thompson: With the backup alarms, what does that raise the decibels by?

Thomas Baird: Those alarms are impulse noise. That generally does not have an impact on this type of noise measurement at all.

Member Thompson played a recording of back up alarms that can be heard from Olley Park in the afternoon.

Thomas Baird: I can tell you that at the eastern property line, that won't be an issue. The property immediately adjacent to 52, will still be in the low to mid 50's.

Engineer Queenan: I agree with John. I was at Olley Park doing a dam inspection and you can clearly hear it.

Member Thompson: The new buses are relatively quiet as far as engine operation and driving. It's the alarms that are constantly going. With well over 100 buses and before they take off or come back, they're testing their back up alarms. That's a lot of noise first thing in the morning.

Anthony Mirando: The alarms are required. They're technically exempt from any noise ordinance, but I understand why you're raising concern. It has also been a bus facility for years and has been a commercial site. We hear what you're saying as we've demonstrated in our efforts with this submission. We paid close attention to the property line given that there's a residence next door. In a commercial district there is going to be noise, but it doesn't necessarily rise to a level of significance.

Engineer Queenan: We'll finish the review of this.

Member Pearson: What is your overall limits of disturbance?

Zach Peters: In terms of what's out there, the disturbance on the easterly property line where the berm is going to go, runs up to that existing fence. That actually is going to be removed or converted. Then fill in a couple spaces on the interior site that are more over grown. In terms of cover, it's actually just a slight reduction from what's out there now, primarily due to the width of the berm.

Engineer Queenan: Some of the buildings you're not proposing water and sewer, is there a reason?

Zach Peters: Those buildings are essentially garages, empty buildings.

Village of Walden
Planning Board Meeting
February 22, 2021

Engineer Queenan: The one building you have listed as Orange County Transit Offices.

Zach Peters: I'll check on that.

Engineer Queenan: And the building all the way to the rear is the maintenance garage. Verify that. And then I know you're removing the trailers, but there's also a storage unit, is that coming out as well?

Zach Peters: I'll check with the owner on that.

Member Pearson: Can we get an update on where you're at? I know you're on a time limit with getting the water and sewer connected with the Village?

Anthony Mirando: The owner, Walden East is communicating with the Board of Trustees right now. There is a mutual, not mutual opinion on timing. That's being discussed. We're a tenant of the property, which is an existing facility on the property and we're just using our site. We added the sewer and water connection details as part of this, as we were requested by the Village during the process. We are pursuing that with it, but within the same regard, there are certain things that we don't necessarily control. We're trying to move forward with the sewer and water as fast as possible with the owners. But the timing is an issue for the Board of Trustees at this point.

Attorney Dickover: A couple of comments just on the trailers, I heard Zach say that the portable restroom trailer has been removed. Have the other two trailers also been removed at this point?

Anthony Mirando: No, they're proposed to be taken off.

Attorney Dickover: What's the time frame for that?

Anthony Mirando: I don't have a day and time for that. It's part of the proposal that would be approved, if we are able to get approval from this board that they will come off.

Attorney Dickover: So, that means they won't be removed until there's an approval? Is that what you're saying?

Anthony Mirando: Is there a recommendation on that issue? In our view, we say they were preexisting the annexation. They were there and they were utilized by Orange County Transit. There's a pending ZBA appeal that we have filed. With our focus with the Planning Board to just resolve all of this together. There was an issue that came up with railings that didn't get a building permit for those and things like that. That's up for debate with the ZBA at this point. But as far as the trailers themselves, they are still there as they were at the time of annexation.

Attorney Dickover: As part of your application of the proposed use of them as breakout rooms and meetings, that's off the table at this point?

Anthony Mirando: Yes, they will be removed.

Attorney Dickover: The same question about the subdivision, that's also been withdrawn and is not part of the application any longer?

Anthony Mirando: Correct.

Attorney Dickover: Just to comment on the noise, the board seems to be concerned about that. Absent an independent noise expert analysis, the board's general perception or public comments about excessive noise or objectionable noise, if you are concerned about that, I would recommend or tell you

Village of Walden
Planning Board Meeting
February 22, 2021

that to support that finding, you would have to have an independent noise and analysis of your own. Which would involve the board's decision to expend funds for that, but to engage the board's engineers firm for those purposes. Again, just generalized comments about objectionable noise is not going to be enough to sustain any adverse finding that you might make with respect to the applicant's application on the issue of noise.

Member Pearson: John, you've done that?

Engineer Queenan: Yes.

Anthony Mirando: I just have to add, this application has been before this board for quite a while and this is the first we're hearing of you retaining a noise expert. It's something that certainly going to delay this moving forward.

Engineer Queenan: But this is the first we received your noise analysis after we have stated that this was a concern of the board since the day that you applied.

Member Thompson made a motion to direct Lanc and Tully to conduct a noise analysis. Seconded by Member Muehlen. All ayes. Motion carried.

Attorney Dickover: The applicant's representative in correspondence to the board has suggested that this might be a type two action. Do you want to address that? I saw your comment and I looked at it, I'm not sure I agree with your assessment. So right now, the board has declared itself Lead Agency, circulated a notice of that intent. You resolve that issue back in the month of October and on that day, you typed this action as an unlisted type action. That's the path that you're on here. It would lead you to the need to make an environmental determination at some point and schedule a public hearing on this application. But the applicant has suggested that this is a type two action, which would not require any further environmental reviews.

Anthony Mirando: Just to be clear, the application for site plan approval continues, whether you issue a Negative Declaration under SEQR or if this was a type two action. The public hearing that council mentioned still occurs as irrespective of the SEQR process, just to be clear. The project that's before you at this point, which has been updated during this review process, including removing the trailers and some of these other things we've offered. The project that's before you at the moment appears to me to constitute a type two action under subsection 617.5c-9 *read subsection* I think it falls within that provision as opposed to now. As well as under subsection 13 of that same criteria where it says extension of utility distribution facilities, which include sewer and water. Seems to me that those two combined can certainly constitute this action as type two. I'm happy to have further discussion about it. I just thought it was worth raising because we've been proceeding in this way to work collaboratively with the Village. But the sewer and water connection, it doesn't independently require site plan approval. That can certainly move forward with your Village DPW and other agencies, but it's being held at this point. It's added to the site plan to show all the information collectively for engineers, DPW and everyone to look at together. It's not independent to subject to site plan approval. So, as an action itself, it's type two, to connect to the existing sewer water facilities. What we're saying is those paths can keep going. We can seek water with the Village and DPW in our view. But if that's not the case and the board finds that these are type two actions, then we're sort of held up.

Attorney Dickover: Are you suggesting that your project or the application can be bifurcated? Earlier you mentioned it is really two pieces, one sewer water connections and two the circulation and parking of the buses.

Anthony Mirando: What we're trying to do is we can try to review them collectively. We were asked to put the information out, so we would try to work that way. But we're also trying to move as efficiently as we can. When I look back at the type two criteria, it seems reasonable that both components are type two actions.

Village of Walden
Planning Board Meeting
February 22, 2021

Attorney Dickover: Both of them? Why don't you give me a call Thomas Bairdorow we can discuss it further?

Anthony Mirando: Well, certainly if nothing's going to be decided tonight, I don't want to continue to push it.

Engineer Queenan: We did get a revised EAF. Will look at that. Seems in order. Start preparing the part 2 and part 3 of the document.

Zach Peters: If the does engage in an independent sound study, is there any consideration from the applicants on what could or should be included in that? I understand that concerns over the sound, but the site is an existing facility that existed prior to the annexation. Is the noise study going to include some sort of separation between what is existing and what was existing at the time prior to the annexation versus what is specifically being proposed on the site plan? Because I think there is a difference there.

Engineer Queenan: I would say that the board has engaged obviously tonight. We're going to put together a proposal to the board for review. I don't know if it has to be dictated by the applicant at all but it's up to the board. We're going to match similarly to the study that was done in the same location, because I know we're just dealing with the eastern half of the site, which at the time of annexation, it was not being used for all the buses. We will probably add the area headed towards Olley Park.

C. DISCUSSION ITEMS:

D. INFORMATION ITEMS: None

E. CORRESPONDENCE: None

3. COMMUNICATIONS: None

4. EXECUTIVE SESSION:

5. MEETING ADJOURNED at 9:15pm

Member Muehlen made a motion to adjourn meeting. Seconded by Member Thompson. All ayes. Motion carried.

RESPECTFULLY SUBMITTED
Marisa Kraus, Village Clerk
Planning Board Secretary