

Village of Walden
Zoning Board of Appeals Meeting
July 24, 2024

Chairwoman:	Brenda Adams	Present
Members:	Mary Ellen Matise	Present
	William Sestrom	Present
	Scott Barilli	Present
	Lisa Mazzella	Present
Alternate Members:	Christine Sciurca	Present
Building Inspector:	Robert Wallner	Present
Village Attorney:	Dave Donovan	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:

June 26, 2024

Member Matise made a motion to approve the minutes from June 26, 2024. Seconded by Member Sestrom. All Ayes. Motion carried.

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.1 126 North Montgomery Street, 6:30pm

Motion to reconvene made by Member Barilli. Seconded by Member Sestrom. All ayes. Motion carried.

Chairperson Adams: I'd like to read the new notice because when this was before us last it was for a use variance and has been changed to an area variance so therefore it was re-noticed to the neighbors and in the newspaper. Please take notice that a public hearing will be held Wednesday, July 24th at 6:30pm or as soon thereafter as can be heard at the Village offices 1 Municipal Square, Walden to consider the appeal of Walden Construction Enterprises, LLC. for an area variance for property located at **126 North Montgomery Street** and identified on the tax map as section 302, block 1, lot 5.12 located in an R3 single family zoning district from certain provisions of the zoning law of the Village of Walden so as to construct a 102" x 56" double-sided monument identification sign in the front yard 10' from the property line. The reason for the variance will be to vary section 305.34 schedule of permitted signs so as to construct a 102" x 56" monument identification sign in the front yard area of the R3 zoning district 10' from the property line where such signs are prohibited. The second variance is to vary section 305-37H, 1 monument sign so as to construct a two-sided monument sign with a maximum of 40ft² per side where a 30ft² one-sided sign is allowed. All persons interested will be given an opportunity to be heard. Would you state your name please for the minutes?

Ryan Smithem: My name is Ryan Smithem for Walden Construction Enterprises. (Ryan spelled his name.)

(Ryan was asked to speak more directly into the microphone so that Member Sestrom could hear him.)

Chairperson Adams: Previously Larry was here and he gave us an overview of what you want to do but it has changed based on some thoughts that we had, that we offered to him, and some rethinking of the whole thing. So tell us what you have changed.

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Ryan Smithem: The sign has been reduced to 40ft² per side, the address now shows on the face, and is now 10' back from the property line. Additionally, there were questions about where the sign would be, it's in approximately the same location.

Ryan handed out pictures of the location and reiterated that the sign would be 10' back from the property line.

Member Matise: Is the rental sign going up or coming down? SO these orange marks you have here are the edges?

Ryan Smithem: It's a temporary sign. Yes.

Chairperson Adams: So you say you have reduced it to 40ft² on each side?

Ryan Smithem: Yes, that's correct.

Member Matise: Is Walden Heights a registered name? For the project? So when people call Amazon, and they order something, they say, "Bring it to Walden Heights"? I'm just asking because I was somewhere today and an inquiry came in about Walden Estates. So we have Walden Estates, we have Walden Heights, two different locations, and then Walden Estates is actually the owner of the senior rentals center across the road from this place. So it was like well, "Which one of the three are you talking about?"

Ryan Smithem: I'm not sure. (inaudible response to Member Matise.)

Chairperson Adams: So you're still requesting a sign larger, well first off, there's no sign allowed so the first variance would be to allow you to have a sign.

Ryan Smithem: Correct. And the second variance, based on the two-sided sign requirements (inaudible).

Chairperson Adams: And tell me why you think you need such a large sign.

Ryan Smithem: (Spoke about the distance from the setback)

Member Matise: Has anybody done any I don't know what you'd call it, sight distance trial runs? Because to me the numbers are still too small. I mean the name is important but the address is more important. So with those numbers so small, just looking at the rental sign too, the phone number and the (inaudible) on here are way bigger than what you're proposing for 126 North Montgomery Street, on this other sign.

Ryan Smithem: So, (inaudible) the address is on there.

Member Matise: The address is, that's the 911 number. If anybody goes to the county GIS site, they're not putting in Walden Heights, they're putting in 126 North Montgomery Street to see what comes up on the tax map. So, I still think the numbers are too small.

Ryan Smithem: This is for a business though.

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Member Matise: No, it's not a business. It's a residence. It's seniors. That you people are saying the reason to have the sign is so the ambulance can see it down the block. Well, the ambulance is going to be there over and over for the same people anyway eventually. So, they'll know where it is, but I still think the numbers are too small. And I think it seems like the company hiring you to do this sign is not, they have something against putting the address up there? It needs to be read by emergency vehicles.

Ryan Smithem: These numbers will be much larger. The entire sign is 5' tall so those numbers are going to be 6" tall.

Member Matise: So if you drive back 100' on rte 52, are you going to see those numbers?

Inaudible back and forth about the legibility of the sign from a distance.

Ryan Smithem: This isn't to scale.

Member Scieurca: So what is the scale, because I can't see it.

Ryan Smithem: It doesn't actually have a scale.

Member Matise: There are the colors you're proposing? So it's like a clay, a tan, a brown, and white letters. Maybe, we can't really tell because it's a matte finish.

Chairperson Adams: And what about lighting?

Ryan Smithem: Correct. I believe that the board previously said that external lighting [on to the side, towards the front].

Chairperson Adams: Ok that's part of the plan? I didn't see that in your write up.

Ryan Smithem: *Inaudible*

Member Matise: Why did you move it back from the road?

Chairperson Adams: It was required, they wanted 5' before, it's 10' would be required.

Member Matise: Well, but they're here for a variance, so why wouldn't they just ask for both variances at the same time? But they moved it back?

Chairperson Adams: They did. Well, actually they need a variance to allow the sign at all; because no sign is allowed there. So the first variance is to allow a sign at the 10' marker. The second variance is to allow the size of the sign which is excessive, and it's been reduced, but it's still pretty big. As a residential area, there's no signs allowed, so you folks chose to pick B1-B2 which was the 30ft², right, and yet, you picked a zone but you didn't really want to comply with the zone requirements so you're asking for a very huge variance.

Ryan Smithem: Which was the closest to *inaudible*.

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Chairperson Adams: Yeah, but that's a whole different ballpark, that's a main street, that's the Thruway shopping plaza, it's in the shopping district, it was allowed to have a sign, and so there's no comparison. The comparison is for the townhouse-condo Winding Brook which was, and again, as I told Mr. Marshall, I measured it, I'm not a perfect measurer, so I was out there with a measuring stick but it's 26-27ft², Walden Glen, the mobile home park, is 24ft² because they have 12 in a "V" shape, it's angled so you can see it from both sides but it's still only 24ft² and the Village "Welcome" sign is roughly 35ft². Everybody sees those places and they are all in the right locations so why do you feel that yours needs to be so much bigger. I realize you have a bigger space, but we need to think about if the Walden Glen comes back to us or Winding Brook, and wants to then increase, we'll just have one violation after another or one variance request after another. And we also have other residential units coming into the village that's going to be built and they are going to want signs also so we have to be very careful about what we do with yours. And it just seems excessive.

Ryan Smithem:

Inaudible dialog between members of the board and Ryan Smithem.

Chairperson Adams: The largest sign in that area is the 35ft² which is the Village of Walden Welcome sign. The next one, the other two are between 24-26-27 which is under the required... we can't hear you.

Member Mazzella: The reason I'm asking is because I drove by there, and this, is a very clear field and I know that if I'm driving, it's 30mph, but it's readable, and if this is your focal point, that's the only thing in the field there's nothing else to read. And if you have a light there's even more attention so in my mind, it doesn't need to be that big because it isn't competing with anything. That's why it's a little bit of a sticky situation because I believe that in our position we have to consider what's down the road. Even as it is now, it's isolated so it'll be obvious.

Member Matise: Can I bring up something else?

Chairperson Adams: Please wait, let [Member Mazzella] finish.

Ryan Smithem: *Explains from a safety perspective.*

Chairperson Adams: The rule is from the ground. But the rule is from the ground.

Member Matise: I understand that. But because the ground goes up, it's higher. The sign is 5' on top of 4' then you're 9' off this drop. I understand what the rule is, but you're talking about wanting a smaller sign.

Member Mazzella: If I'm looking at this correctly... it slopes down.

Member Matise: It doesn't slope down. If you're saying that a 40ft² sign is too big, then part of that is the height, not just the width, it's the height, but then you're putting that on top of a 4ft high ground. So when you're driving down the road... I understand that, but, you guys don't get what I'm asking.

Chairperson Adams: the sign itself, they're asking for a 40ft² sign from the ground. No it includes the base.

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Member Mazzella: But doesn't it say from the ground? So whatever the ground contour is, that's what it is.

Member Matise: That's fine, but if you're asking for a smaller sign, ask for a smaller shorter sign.

Chairperson Adams: Well that's what we're discussing. We didn't say we're doing this, we're discussing it right now.

Member Matise: Ok.

Member Barilli: So I have a question. Do you have the distance between the actual road to the sign? Not the property line. You have, the road, the business' sidewalk, and the property line so it's quite a distance from the road. So it's actually 40' from the road.

Ryan Smithem: It's 40'. Yes.

Christine Scieurca: *Inaudible* I think with this community, you're catering to the older population, they're going to want to see the sign. I don't know if there is a standard, is there a standard size for numbers on a house? Do they have to be [a certain size]?

Member Sestrom: The minimum is 4" tall letters.

Chairperson Adams: The size of the sign is very large, we agree that you need a sign but I think, if the sign was 30ft² on all sides that would be a lot more palatable. We're setting ourselves up as the zoning board, we're setting ourselves up for a problem down the road.

Member Barilli: If you were to reduce the sign to the minimum size so as not to cause any issues with other signs.

Attorney Donovan spoke about reserving judgment for a closer look.

Chairperson Adams: Members of the public if you would like to speak. Come up to the [podium]. I need your name and address [for the minutes].

Pauline Ferguson: 16 Center Street, Walden, NY 12586 It's more important to the numbers on the door than on the sign. For fire safety. The location number is important to have for [emergency personnel]. They aren't going to look back at that sign.

Chairperson Adams: Well the sign is for the senior apartments. They have one address and then it's apartment number so and so once you get up there.

Pauline Ferguson: [So how are emergency personnel going to know where to go?]

Chairperson Adams: I'm not exactly sure, but there is a person in the building that they should be speaking with. Someone is calling it in and there is the caretaker that stays there.

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Pauline Ferguson: I was fire safety down in New York City and that would be one of the questions I would ask, having a sign with numbers isn't going to be helpful [in locating an emergency].

Member Sestrom: Each apartment has the 4" number to identify it.

Chairperson Adams: Thank you. Would anybody else like to speak?

Anthony Carlini: 2 Gatehouse Pl. [Original address is important and isn't being reported properly causing issues, one of which is with the landscaping.] It's important that you get the correct GPS address, I don't know how it works but I know they took the numbers, one of them, off the blue house so now it says "12".

Chairperson Adams: The 911 numbers are issued by the building department, so I'm not exactly sure, that would have been done when the old project was put in for planning.

Anthony Carlini: I don't know how you're dealing with it, I'm just mentioning it because you're talking about the sign being tied to a location.

Chairperson Adams: Would anyone else like to make comments about this particular application? Alright. Mr. Smithem, I would like to I suggest that maybe you give it some thought as to what you heard tonight about the sign and we could reconvene in one month for the August meeting. Does anyone else have a comment?

Member Matise: It would be the end of August.

Motion to continue the public hearing for **126 North Montgomery Street** to the next meeting made by Member Matise. Seconded by Member Sestrom. All ayes. Motion carried.

A.2 81 Ulster Avenue, 6:30pm

Chairperson Adams: The next application is for **81 Ulster Avenue**. Would the representative for **81 Ulster Avenue** like to?... Actually, I'm going to read the notice. This is a use variance that you're requesting. Let me just find the notice. And actually, there is one item that you did not sign that you actually need to sign. This is one that does not need to be notarized, but it does need your signature. And I should ask: you are Mr. Beau Blackwood?

Beau Blackwood: Yes, ma'am. Do you mind if I use your pen? Alright.

Chairperson Adams: This is a use variance, and I'm going to read the notice. Please take notice that a public hearing will be held Wednesday, July 24th at 6:30pm or as soon thereafter as can be heard at the Village offices 1 Municipal Square, Walden to consider the appeal of Mr. Beau Blackwood for a use variance for property located at **81 Ulster Avenue** and identified on the tax map as section 306 block 6 lot 13 located in an R5 single-family zoning district from certain provisions of the zoning law of the Village of Walden so as to convert a portion of the basement area into an accessory apartment. Vary section 305-10 use as a residential district so as to convert a portion of the basement area to convert a portion of the basement area of this single-family dwelling into an accessory apartment. All persons interested shall be given an opportunity to be heard. So, would you like to tell us, in your words, what you want to do.

Beau Blackwood: Hi, I'm Beau Blackwood. I purchased this property three years ago, moved from New Orleans and we wanted to use the basement as an accessory unit for when family visits to see their grandkids. My fiance, her whole family is in Florida, we want to be able to [have them visit as well]. We

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bought the property that was already there, it was a Mother-Daughter unit listed on the MLS, I'm not trying to rent it out or have long-term guests or anything in that capacity. On Ulster avenue, many properties are multi-family properties. So yeah, I'm hoping to get some kind of variance [to finish the space].

Chairperson Adams: Our records show that you purchased this in May of 2023. According to this deed. And at the time of purchasing it was labeled as a single-family home.

Beau Blackwood: [We re-financed] I purchased the house in March or April of 2021, I'm not sure what the process, it was covid, it took three months to close. For the record *inaudible*.

Chairperson Adams: The one that I have here is the deed that was transferred from David Barnhart and Dena Barnhart, to Mr. and Mrs. (sorts through papers) that's my error.

Member Barilli: That's not for Ulster Avenue.

Member Matisse: The Ulster Avenue deed, Dean sent us online, you might have a hardcopy.

Chairperson Adams: First off the village doesn't allow accessory apartments. And in 2004 the owner, at that time, turned it back into a single-family home which is why there was this little apartment downstairs. [T]here's a whole group of criteria that you must meet in order to even be considered for a use variance. Did you bring any evidence for those criteria? It would have been in your package for your application for your permit.

Beau Blackwood: Yeah, I submitted all of that.

Chairperson Adams: No, you didn't. We need financial information for why it is important to have this. It was in your package it was attached to the application you filled out, it tells you all the things you need to do.

Beau Blackwood: Everything that I needed to submit, I submitted. If there are additional things like financial justification or argument, I'm under the impression that it doesn't really matter, what I'm under the impression of is that if there's no substantial impact environmentally on the neighborhood, on my neighbors, on the street, there's no real impact that that's how the decision is made.

Chairperson Adams: The Zoning Board of Appeals there was a use variance information attached to your application that tells you what the guiding principles are, what the standards are, and what you need to do it; and you must meet, for a use variance, you must meet all four criteria. It isn't, the applicant cannot realize a reasonable return provided that the lack of return is substantial as demonstrated by competent financial information. That means dollars and cents and a profit and loss. The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district. That the requested use variance, if granted, will not alter the essential character of the neighborhood and that the alleged hardship has not been self-created. So you must meet all four of those requirements in order to even be considered for a use variance. The village does not allow accessory apartments, mother-daughter would be considered an accessory so... yes.

Beau Blackwood: So the village only allows non-accessory fully complete units; correct.

Member Matisse: In certain zones. Not in *inaudible* no he means two-family.

Beau Blackwood: Hypothetically if I did meet all four criteria it sounds like the village only allows fully complete basements.

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Chairperson Adams: And that's why you would need to get a use variance to change it. Also, apartments in the village must be 900ft² you stated that [your basement] is 440ft², so you are less than half of what a village apartment allows.

Member Matise: Can I ask a question? Is there an outside entrance to the basement? And are you using the finished basement as a living space and an activity space? Was the kitchen equipment there when you moved in?

Beau Blackwood: Yes. Right now, it's storage. there's a kitchen right now.

Chairperson Adams: And that means it was probably put in after they changed it back to a one-family house.

Beau Blackwood: What do you think?

Attorney Donovan: Do not answer that, [zoning board cannot surmise intent].

Member Matise: The kitchen should have been removed.

Beau Blackwood: What can be done with the space as it is now so it isn't subject to fines?

Chairperson Adams: I would say that you need to go to the building department and speak to the building inspector about how best to proceed. Would you like to withdraw your application at this time?

Beau Blackwood: Yes.

Chairperson Adams: You have withdrawn your application. So, can we have it on record that the applicant has withdrawn the application. Thank you.

A.3 20-22 Center Street, 6:30pm

Chairperson Adams: Next up is **20-22 Center Street**, and I will read the notice to that. Please take notice that a public hearing will be held Wednesday, July 24th at 6:30pm or as soon thereafter as can be heard at the Village offices 1 Municipal Square, Walden to consider the appeal of Mr. Michael Hagopian for an area variance for property located at **20-22 Center Street** and identified on the tax map as section 305, block 11, lot 7 located in an R5 single-family zoning district from certain provisions of the zoning law of the Village of Walden so as to have subdivided lot with a minimum lot width of 45'. Vary section 305-6 dimensional regulations so as to have a subdivided lot with a 45' in the R5 zoning district where the minimum lot width is 50'. All persons interested shall be given an opportunity to be heard.

Chairperson Adams: Mr. Hagopian, would you please tell us what you want to do before we open the public hearing? You own the full property. And what do you do with the duplex, 20 and 22? I guess we'll just open the public hearing so we can start our questions.

Michael Hagopian: I do. I rent them out.

Motion to open public hearing made by Member Sestrom. Seconded by Member Barilli. All ayes. Motion carried.

Chairperson Adams: So we have a lot of questions for you. What seems simple, that you would have the square footage to make the second lot, that you would only need the width of 5' so it seems simple to start with but, have you given any thought to the parking situation of **20-22 Center Street**? Have you looked at the code to see the regulations and given any thought to offering off-street parking for that property? Yes, but that's street parking. Off street parking is what I'm talking about and the village

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requires off-street parking. So there's a reservation about the off-street parking for **20-22 Center Street** because of the code, [it] would require at least four spaces. The area is overgrown, it's not been used, years ago that was all landscaped all the way down to North Street so there was always access to the backyard, just like the property alongside of you; that goes all the way down to North Street and they have access to their back yard. The property you own was once like that but now it's all overgrown so now there's no access off-street parking and being very well aware that your people are parking on the street not in the yard but you're supposed to give it to them and currently by having that yard in the back that you want to make into another lot, you're taking away the option of making off-street parking. So we have a little unintended consequence I guess of what you want to do. Have you given any thought to that? How you might remedy [this]?

Michael Hagopian: Ok. This is the first I'm hearing about it, it's pre-existing. No, because there is parking.

Member Matise: What she's asking you, and maybe you can tell us because you bought the property before last winter, when [there is] 10" of snow you cannot park on the streets in the Village of Walden so that facilitates snow plowing, so what did your tenants do last winter when we had snow emergencies and they were not allowed to park on the street? Where did they park? You're the landlord and you own the property, so it's your responsibility. It's not their responsibility to have to beg for a parking spot somewhere else because the village makes provisions for on-site off-street parking in residential areas.

Michael Hagopian: I can't answer that. They aren't using the lot now.

Chairperson Adams: So our concern is what happens to **20-22 Center Street**, or that's the concern I'm voicing. Correct, it's well overgrown, I don't think, you'd have to create a whole new driveway in there. I get that and I get that they're not using it, and I guess the dilemma here is not so much the second lot or the 5', it's more what happens to **[20-22 Center Street]** if we approve this lot. And perhaps we can send it back to the building inspector to do an evaluation and look at it and see what his take is on it as far as the code goes. To review the code because what we wouldn't want to do is create a situation. Whenever you're building something, what you have put on your drawings you're showing parking spaces for the new house so you're following the rules for new construction what's missing is what happens to the old construction when that option goes away. That's the concern that I have and I would actually like to hear more from the building inspector, not tonight, to research it because we do not what to set a situation where this is a problem for us down the line. I'll open it up to the people here.

Member Sestrom: I'm wondering if we're holding him hostage on the subdividing side just to get parking on the other side. Is that what we're doing?

Chairperson Adams: No. Our focus is really on the 5', in all sincerity, our obligation is to look at the 5' that's the variance that's being requested but to make sure that we don't need a second variance or something differently, we need to look at the bigger picture. Quite honestly this is the first time since I've been on zoning board and I've been on it, this is my second time around, I've never had a subdivision that took away something from the original property so I need more information. Mr. Donovan would you like to?

Attorney Donovan: The zoning board is a board of appeals, so the determination was appealed by the applicant. I agree with the zoning board that it needs to be evaluated.

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Motion to return back to the building department made by Member Matisse. Seconded by Member Sestrom. All ayes. Motion carried.

Chairperson Adams: We aren't making a decision tonight either way, we need more information to help us out but we've opened the public hearing so we are going to hear from the public. So if you could stick around please in case we have something to ask. You have to give your name again.

Pauline Ferguson: 16 Center Street [Mr. Hagopian's] tenants parked behind the property. People have been doing that since I was a kid. I don't think that dividing [the lot] and putting another building there is a good idea.

Becky Pearson: 167 Walnut St, I'm trying to understand, the building has apartments. What is the lot size now?

Member Scieurca: 45 width'

Becky Pearson: I'm Concerned about setting a precedent for larger homes.

Pauline Ferguson: The age of building – the Schrade company had those building built for managers. Yes, there were wells on the property, but those were taken out.

Motion to continue public hearing to the next meeting made by Member Matisse. Seconded by Member Barilli. All ayes. Motion carried.

Brenda: Follow up in writing to building department? Yes.

B. FORMAL APPLICATIONS:

B.1 126 North Montgomery Street, Area Variance.

B.2 81 Ulster Avenue, Use Variance.

B.3 20-22 Center Street, Area Variance.

C. DISCUSSION ITEMS:

D. INFORMATION ITEMS:

Adjourned until the next meeting on August 28th on the third floor at 6:30pm.

E. CORRESPONDENCE: None

3. COMMUNICATIONS: None

4. EXECUTIVE SESSION: None

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

RESPECTFULLY SUBMITTED
Anisetta Valdez, Zoning Board Secretary