

Village of Walden
Zoning Board of Appeals Meeting
September 25, 2024

Chairwoman:	Brenda Adams	Present
Members:	Mary Ellen Matise	Present
	William Sestrom	Present
	Scott Barilli	Present
	Lisa Mazzella	Present
Alternate Members:	Christine Sciurca	Absent
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:

August 28, 2024

Motion to approve with one correction on pp. 9, "Chairperson Matise" change to "Chairperson Adams" made by Member Matise. Seconded by Member Barilli. All ayes. Motion carried.

2. BOARD BUSINESS

A. PUBLIC HEARINGS:

A.120-22 Center Street, 6:30 PM

Chairperson Adams: All members will be allowed to speak.

Robert Sarajian: Allow me to sit (closer) will rise to answer.

Chairperson Adams: The ZBA are unpaid public servants. We take an oath to uphold the village laws and zoning. Every member takes four hours of credit courses per year and as a judicial body we must follow the laws set forth by New York State that every municipality is to abide by. We are obligated to stick to the factors of NY state, regardless of how we may feel as residents or members of the public. Secondly, the comprehensive plan is currently being reviewed. Myself, and Member Mazzella represent the ZBA in that committee as does Member Matise as village historian. It's to accomplish future goals but to also correct past practices that are no longer adequate for our village. We will be redoing the factors tonight. First, I want to address the area residents. I worked up a spreadsheet and we received information from the Ferguson family at **16 Center Street**, the Ali family **8 North Street**, Adam Garrett, Kenneth W. Garrett II, and Eva Dorado those three did not put their addresses on the letters so I can't tell you where they live. Center Street parking was brought up, but that was brought up last month and it cannot be addressed. The lot size is too small which is why the applicant is asking for a variance. North street is completely connected to public utilities from the water and the sewer line. If they do build there, they will have to pay to connect to the village system, but the village system is there and in place. As to the claim that notices were not sent, but we do have proof of mailing. We are having problems with mailing in Walden, but notices were mailed. The survey done by Mr. Wheaton was hard to read but it was confirmed as 45'. Concerns about wildlife can be directed to Mr. Wallner, the building inspector. Mr. Ali from **8 North Street**, the only single-family resident on North Street, he brought to light a health and safety issue. His narrow street, he was he was concerned about because right now there's no turnaround except in private drives. Especially for large trucks, the garbage truck must back into the street which can be dangerous. That the truck has to back in because there's no place to turnaround. He also mentioned the snow plows but they must also back out.

Pauline Ferguson: **16 Center Street** I measured on the front and it is 45', but on the back it is 44'.

Chairperson Adams: According to Mr. Wheaton it's 45' and we must go by Mr. Wheaton. He is the professional.

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Pauline Ferguson: I looked at the map and it's going to be 7' from my father's fence, and 8' is not 10'. There are a lot of pests. We have been talking for two months about this.

Chairperson Adams: That is code enforcement issue, please speak to Mr. Wallner. You have the right to go to the planning board and raise your concerns about the engineering details. We are strictly dealing with a 5' variance. Their meeting won't be scheduled until we make a decision.

Pauline Ferguson: Parking issue – you said it was between the tenants and the owner but what does that mean?

Chairperson Adams: That means if the [tenant] gets a ticket that's up to them.

Attorney Donovan: The new lot will provide the parking. Is it ok if I go? The issue that was raised was that the folks on lot 1 would not have parking but that was not deemed and an issue the new build will have the parking necessary for that residence.

Chairperson Adams: You can bring up all of these things, [the planning board] can deal with all of these issues.

Pauline Ferguson: The other street had barriers there is no saving, and it isn't wide enough [storm drain].

Chairperson Adams: I live on a very narrow street in an R5 zone as well. We are the first stop. They went to the planning board and they sent it to us for the variance, now it will go back to them if we approve.

Pauline Ferguson: It's a dead-end road so it is very precarious for children, and they pull into people's driveways. It's a dangerous turnaround.

Chairperson Adams: I agree.

Member Sestrom: I don't like hearing that at all, but it's a police matter.

Pauline Ferguson: Nobody comes to monitor or watch.

Member Barilli: I sympathize with that because I live off of 208 and traffic has increased 10-fold. And they aren't doing 30mph.

Pauline Ferguson: As far as the 45', I really think it's a bad idea. Others are going to follow suit. The building people thing, my property is [changing but it's not] it's historical. The rain was coming into my father's basement so my father [fixed] it so his basement can start to dry and that's lack of maintenance. Lisa, do you have any questions?

Member Mazzella: It seems to me with everything I've read it's a very tight fit. And especially with a difficult to navigate street, there's homes, whether we can consider it or not, [it matters].

Member Matise: Making changes back to smaller lots, after we've changed from smaller lots, would be creating a problem that we are trying to eliminate and that doesn't help anyone. There's no setbacks [on a particular home that is historical] we are trying to protect people's homes and investments. It's not a good practice or precedent to set.

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Becky Pearson: I said all I wanted to say last time, I know you don't like the word precedent but it is setting a standard for other homes and these laws are set for a purpose. And luckily the house next to the one on Orchard didn't burn down, the fire department got there quickly enough.

Member Mazzella: I can honestly tell you that it was a miracle that [only one house burned down]. This is for safety more than anything else.

Chairperson Adams: Bring all this up again as we go through the factors again, and I thank you for reminding us that we cannot deny the variance based on the objections by the neighbors. We are struggling with this, we will take a hard look at it. The safety of the village and residents is tantamount.

Patrick Brady: Engineer for 20-22 Center, with respect to the side yard it should be 10' from each property line and with respect to fire, there are new fire codes so the build must conform to that. Health and safety.

Chairperson Adams: You said that the zoning layout that you gave us is going to be 10' instead of 8'? Looking at a 25' wide house now.

Patrick Brady: Yes.

Richard Sarajian: The granting of the 5' variance for the frontage street doesn't change any of the side yards. It won't allow a wider house, no side yard variances.

Patrick Brady: The plans you have before you meet all the code requirements

Patrick Brady: Village engineer comments –

Member Matise: Part of the concern is even with new fire codes you still need that space.

Patrick Brady: Explaining the sizes of the home

Member Matise: Now you're making it 10' and 10'.

Robert Sarajian: We're not seeking any variances on any of the sideyards and the 45' is confirmed by Mr. Brady and the tax map.

Chairperson Adams: Mr. Sarajian says no, at the last meeting we discussed congestion, Mr. Ali has said that due to it being dead-end there's already congestion, three drives and North Street is not a through street, it's a way to get to other's backyards, it hasn't been taken seriously as a street but it is blacktopped. I struggle with the undesirable change because the street is so varied but it is undesirable as the turnarounds and the numerous construction vehicles will further complicate the area. Allowing this variance causes more problems. R5 is the older part of Walden which is 75' in R3 it is 90' but that doesn't mean we need to make more so no one loses the value of their lot. Across from me are 25' lots it doesn't mean they should build more. In the 80's and 90s they realized that they had created an unsafe environment.

Attorney Donovan: Go through Mr. Sarajian's letter and then deliberate. Is my suggestion. I suggest, you decide.

Chairperson Adams: I'll go through my notes. Your concept that it was substantial, you said no, and you're right but it ignores well-thought-out plans to ignore density. Opens the door to other property owners, and even though everyone is on their own merit, another person who needs 2', 5', the board will have to give it to them.

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Member Barilli: They could also argue that this is a case-by-case basis.

Member Matise: In his letter, the attorney is stating all these other cases. So if [Member Barilli]'s logic follows then why are we using any of these other cases to support this case?

Attorney Donovan: Yes, but that's not how this is done. So you look at what's desired and you make your case with similar facts, so if you want to reach degree of precedent and degree of why are you're varying the decision. Statutory law and case law. An applicant has the right to have his argument heard.

Chairperson Adams: Last thought that I have and also to have the applicant speak.

Environmental and safety.

Chairperson Adams: Departments never weigh in on these things.

Member Matise: Let's talk about community character. Do you want to live on this street?

Chairperson Adams: I think this is very subjective, and we can't judge who's going to buy a house.

Member Barilli: I don't think it's a detriment.

Richard Sarajian: Almost every other lot doesn't need a variance, there are really no other significant lots. The homeowner that complained has 55', it's already non-conforming. There's no traffic study or drainage to support what's being brought before you. Not substantiated by proof.

Chairperson Adams: You don't live here, none of you do, and we are speculating, we do give pause because we have had fires and we have lost children. We've seen this happen, we've lost children because of fire and it upsets us, you fight for everything in your areas, we have to fight for ours. When a person tells us that people are racing up the street and then that they turn around instead of back out.

A sidebar was held between attorney Sarajian and Member Matise.

Member Sestrom: Awful lot of talk about traffic, it's tight, there's no turnaround, I don't think adding one more family is going to change anything. Every case stands on its own two feet, precedent doesn't bother me. There's concern about it being overgrown and there's critters, I think a house would change that. The Planning Board may ask you to make a turnaround to ease the congestion so if you come to the Planning Board offering to do that he'll love you. I don't like the feel of displacing people who've been able to park easily and complicate it further. I don't want to put the village in that kind of situation. If extra parking and can be developed, that is a slam dunk. If you can't then we may be talking about this for a while. Tenants in the existing house are parking in the snow and those tenants may come to us saying we took away the space they had.

Member Matise: The village is on a kick to limit street parking.

Member Barilli: I agree with a lot of what Bill said, are we still only talking about one factor? There's other things that need addressing, but that's not our decision. We have to focus on the factors.

Chairperson Adams: Any items you want to discuss?

Member Barilli: I think we are talking about a lot.

Member Mazzella: I've only been here three years but this is a space issue. And people who live in an area for long period of time can see what effect the changes may have. A lot of things may have gone on that people are comfortable with it doesn't mean we have to address it. And there's always one side that's

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going to be happy and the other is going to be unhappy. The closeness is concerned and all things being equal, not everything is containable.

Pauline Ferguson: Just asked the BI if he knows the nearest fire hydrant. By adding an additional house, we need knowledge of the nearest hydrant. That's important. New map with the new design of the house. If it's approved I want it set that the width of the house is 25'.

Richard Sarajian: Firecode is Planning Board. The fire inspector will be there. The house will be 25', I didn't realize you didn't have the updated plans.

Chairperson Adams: Are we ready to close the public hearing? Do you want a motion to leave the public hearing open?

Member Matise: Can we request a report from fire and ambulance?

Motion to leave the public hearing open made by Member Matise. Seconded by Member Barilli. Motion passes 4-1.

Objection by applicant.

Attorney Donovan: I want it to be very clear about who is being reached out to. It's to leave the public hearing open for the specific purpose of getting information from the fire department. Information is vitally important, understand the fire department has no legal jurisdiction over this board.

Chairperson Adams will get a determination from the fire department

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

B. FORMAL APPLICATIONS:

B.1 250 & 254 Lustig Court, 6:30 PM

Chairperson Adams: The next item is the formal approval of the resolution for **250 & 254 Lustig Court**.

Motion to approve the resolution for **250 & 254 Lustig Court** by Member Barilli. Seconded by Member Sestrom. All ayes. Motion carried.

B.2 2 Ayr Court, 6:30 PM

Chairperson Adams: The second item is **2 Ayr Court**.

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

B.3 20-22 Center Street, 6:30 PM

Chairperson Adams: Next up is **20-22 Center Street**. The public hearing is closed.

Richard Sarajian: Attorney for Mr. Hagopian.

Chairperson Adams: Responses from neighbors. Will go through them first then through answers.

Member Matise: Closing the public hearing on this matter, was surprised because we closed it and chose to accept written comments. Maybe prompted by the attorney, never asked any village departments, can we re-open and ask them to participate?

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Motion to re-open the public hearing made by Member Matise. Seconded by Member Sestrom. All ayes. Motion carried.

C. DISCUSSION ITEMS:

D. INFORMATION ITEMS:

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

E. CORRESPONDENCE: None

3. COMMUNICATIONS: None

4. EXECUTIVE SESSION: None

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

RESPECTFULLY SUBMITTED
Anisetta Valdez, Zoning Board Secretary