

**Village of Walden
Zoning Board of Appeals
November 4, 2010**

Present: Chairman James Corbett
Members Brenda Adams
Jason Trafton
David Ohlmer

Also Present: Kevin Dowd, Village Attorney
Dean Stickles, Building Inspector

Chairman James Corbett called the meeting of the Village of Walden Zoning Board of Appeals to order at 7:30pm.

1. BOARDS BUSINESS

A. PUBLIC HEARING

A.1 108-110 Orange Avenue – Use Variance, Continuation of Public Hearing.

The applicant provided the board with information to show cause and prove his case. The package included information about the income and expenses of the property. Jerry Jacobowitz explained that tenant parking will be limited to one space on site for each apartment. He said that snow will be plowed and removed and each tenant will put their garbage out in their own cans. Traffic will enter on right side and exit on the left side but there will be no restriction on which way traffic turns when exiting the property. He explained that the leases are verbal agreements and that the rents are reflected on the rate of return sheet. The rate of return sheet shows taxes, insurance, maintenance expenses, and he said that vacancy and management is calculated as 5% of gross rent. Accounting and electric expenses are also included on the rate of return sheet. Return on Investment is 1.61%, this rate is based on the assessed value of the property. He said that this is less than a reasonable rate of return.

Brenda Adams asked what the monthly mortgage payment is.

The monthly mortgage for the property is approximately \$1200.00 per month.

David Ohlmer said that he feels that a 1% return is not a hardship. However, he said that the fact that the building is costing more to operate than can be recouped in rents shows a hardship.

Kevin Dowd said that the board has to decide what a reasonable return is. He reminded the board that the applicant said that a reasonable rate of return would be 6%. He showed that the mortgage payments have not been included in the calculations and therefore the rate of return is in fact lower than 1.61%.

The applicant argued that given the current economy it is unreasonable to expect a 6% rate of return.

David Ohlmer said that the market place, real estate investors, and appraisers use a 6% rate of return.

James Corbett asked where the rate came from.

David Ohlmer said that licenced real estate appraisers claim that a 6% rate of return on real estate investment property's should be expected.

Brenda Adams asked when the property was purchased.

The property was purchased in 2000. At this time he assumed the mortgage.

Brenda Adams suggested that the interest from the mortgage be subtracted from Net Income. In this case the property would be losing money without the rental.

The Board is concerned with the increase in hours that the property will be occupied. They are also concerned about future retail uses for the property, and potential traffic issues.

Kevin Dowd explained that if the Board granted the use variance the property would be able to operate any retail use. He said that the Board can restrict a deli or convenience store from operating at the location.

Brenda Adams made a motion to close the public hearing.

Seconded by Jason Trafton.

All ayes.

Motion carried.

Brenda Adams made a motion for unlisted negative declaration under SEQRA.

Seconded by Jason Trafton.

All ayes.

Motion carried

Brenda Adams made motion to approve the application for a retail pharmacy with no deli or convenience store and subject to Planning Board Approval.

Seconded by Jason Trafton.

All ayes.

Motion carried.

James Corbett made a motion to adjourn.

Seconded by Jason Trafton.

Meeting adjourned 8:20pm.

Respectfully Submitted,

Lisa Dore