



Larry Kraus said that he had to let an employee go last year, the man had worked for him for a year.

Jason Trafton asked to see his tax returns, he determined that the business is incurring a substantial loss.

Larry Kraus said that he could potentially make a \$500.00 profit on each car that he sells. He stated that he currently has one employee.

Jason Trafton expressed concern over the placement of the cars for sale.

Brenda Adams asked if the whole area at the back of the property belongs to him.

Larry Kraus said that he owns everything except for a parking spot that belongs to his neighbor. He allows his neighbor right-of-way to park his car in this spot.

**Brenda Adams made a motion to close the public hearing.**

**Seconded by Jason Trafton.**

**All ayes.**

**Motion carried.**

**James Corbett made a motion to declare an unlisted action under SEQRA.**

**Seconded by Brenda Adams.**

**All ayes.**

**Motion carried.**

**Jason Trafton made a motion to make the board lead agency and to make a negative declaration under SEQRA.**

**Seconded by James Corbett.**

**All ayes.**

**Motion carried.**

The board feels that it is reasonable to have six cars for sale on the lot at any given time. However, they feel that there should only be three cars on display in the front of the lot at any given time.

**Brenda Adams made a motion to grant approval for 6 cars on the lot of which 3 can be on display in the front of the property.**

**Seconded by Carolyn Wesenberg.**

**All ayes.**

**Motion carried.**

**Brenda Adams made a motion to adjourn.**

**Seconded by James Corbett.**

**Meeting adjourned 8:10pm.**

Respectfully Submitted, Lisa Dore

**VILLAGE OF WALDEN:  
ZONING BOARD OF APPEALS**

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In the matter of the application of:

**FINDINGS OF FACT  
AND DECISION**

**LARRY KRAUS**

for a use variance to allow the sale of used cars on a lot where such use is not permitted.

**TAX MAP NO.  
309-10-1.**

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The property which is the subject of this application is located at 19 Orange Avenue, Walden, New York and is designated on the Village Tax Map as Section 309, Block 10, Lot 1. It is located in an MX(Mixed Use) Zoning District.

A public hearing on the application was scheduled for May 5, 2011 at the Village Offices, One Municipal Square, Walden, New York. Notice of said public hearing, including the subject, date, place and time, was duly published and mailed. Proper affidavits of publication and mailing have been received from the applicant.

The public hearing was held on May 5, 2011. The owner of the property, Larry Kraus, appeared in person. The testimony at the Public Hearing established that the applicant had previously been denied a similar use variance request by this Board 2005, ostensibly on the ground that the applicant could not prove an economic hardship. Currently, the applicant indicates that his automobile repair business has hit hard times and that he has had to lay off employees and has stopped taking a weekly paycheck for himself from the business. As evidence of the current condition of his business he provided the Board with copies of the last two years of tax returns for the business. He would like to be able to sell used cars on his property as a means of sustaining the automobile business and to provide an additional service to his customers. He is proposing to have no more than 6 used cars for sale on his property at any one time.

The Board discussed its concerns with the proposal and the ability for the applicant to keep used cars on the lot together with the cars that he services and repairs. The Board did not want any of the vehicles to be stored or parked off site. The applicant indicated that he had sufficient room on the lot, including behind his building to park the used cars.

No one from the public spoke in favor of, or in opposition

to, the application

The Board determines that this is an application for a use variance. The criteria which the Board must consider in determining whether or not to grant the use variance is the standard set forth in Village Law, Section 7-712-b(2). The Board has considered the following factors and has made the findings set forth below:

**I. WHETHER UNDER APPLICABLE ZONING REGULATIONS THE APPLICANT CANNOT REALIZE A REASONABLE FROM THE PROPERTY IN QUESTION?**

The applicant property has been re-zoned to the MX (Mixed Use) Zoning District where repair garages and used car sales are not permitted. The applicant's repair garage business has been operating successfully on the premises since 1995, however, the economic downturn and the repair business itself has taken its toll on the business. The use of the property for one of the other permitted uses in the MX Zone is impractical and economically unfeasible. The applicant has demonstrated that he cannot realize a reasonable return on his investment and the limited sale of used cars may provide the applicant with enough income to sustain his business. Given these facts, the Board determines that this criterion has been met.

**II WHETHER THE ALLEGED HARDSHIP IS UNIQUE, AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE DISTRICT OR NEIGHBORHOOD?**

The subject property was a prior conforming use as a repair garage in the B-4 Zoning district for years. As stated above, it is now a non-conforming use in the MX Zone as a repair garage is not permitted in the current Zone. The applicant is permitted to keep the non-conforming use and his ability to maintain the business as a viable one given the zoning restraints is unique to this property.

**III. WHETHER THE REQUESTED USE VARIANCE, IF GRANTED, WILL ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD?**

The subject property is located in a mixed use district meaning the neighborhood is designed for a mix of commercial and residential uses. The applicant has operated his repair garage on the premises for the last 16 years and the board determines that the addition of a limited used cars sales business on the property will not have any detrimental impact on the character

of the neighborhood.

**IV. WHETHER THE ALLEGED HARDSHIP HAS BEEN SELF-CREATED?**

The Board determines that the applicant's hardship is not self-created in that the zoning change, economic downturn and the overall change in the car repair business are beyond the control of the applicant.

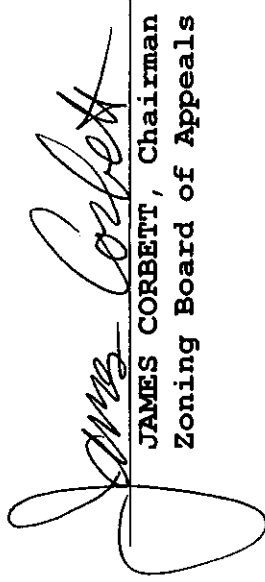
**DECISION**

The Board determines that the requested variance pursuant to Section 148-11 of the Village Code to permit the applicant to sell used cars on his property in conjunction with his car repair business is granted. This variance is granted upon the following conditions: (1) that the applicant shall not have more than 6 used cars for sale on his property at any one time; 2) that the applicant may only have three used cars marked for sale in the front of his business (facing Orange Avenue) and the other three used cars for sale must be stored at the rear of his property behind the repair garage itself.

Present and Voting on this resolution to grant the requested variance:

James Corbett,	Aye
David Ohlmer,	Absent
Brenda Adams,	Aye
Jason Trafton	Aye
Carolyn Wesenberg	Aye

Dated: Walden, New York  
May 10, 2011

  
JAMES CORBETT, Chairman  
Zoning Board of Appeals

Filed in the Village Clerk's Office this <sup>14</sup>17 day of May,  
2011.

*Lori Pinckney*

LORI PINCKNEY  
VILLAGE CLERK