

Village of Walden  
Zoning Board of Appeals Meeting  
April 07, 2016

Chairwoman:	Rebecca Pearson	Present
Members:	Faith Moore	Present
	Carolyn Wesenberg	Present
	Gregory Raymondo	Present
	Mary Ellen Matise	Present
Alternate:	Dan Svarczkopf	Present
Building Inspector:	Dean Stickle	Present
Village Attorney:	Robert Dickover	Absent
Secretary:	Nancy LaMancuso	Present

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Chairwoman Pearson - Called the Zoning Board meeting to order at 7:30pm with the Pledge of Allegiance.

**1. APPROVAL OF MINUTES:**

Chairwoman Pearson – Approval of minutes for 11/15/15 AND 12/03/15.

**Member Raymondo, made Motion to accept Zoning Board of Appeals Minutes of 11/15/15  
Seconded by Member Moore, with all members voting yes.**

**Member Raymondo, made Motion to accept Zoning Board of Appeals Minutes of 12/03/15  
Seconded by Member Wesenberg, with all members voting yes.**

**2. BOARD BUSINESS**

**A. PUBLIC HEARINGS:**

**A.1 175 South Montgomery Street**

**Member Moore and Member Wesenberg - Counted mailings; mailed 41, returned 30, not returned 6.**

Robert Daly, River Road Properties LLC – We are here for a Use Variance for property located at 175 South Montgomery Street in the Village of Walden. The property is owned by River Roads Properties LLC and the property has 3 commercial uses and a residential use. There is a church; a residential use zoned previously was RM1 there are 2 apartments. What triggered us coming to the Zoning Board of Appeals was an action on the part of the Village of Walden inspecting the properties. There was a commercial space which had been made into an apartment and the inspections that were being done by the Building department were for fire inspections and that triggered the action to come here. The apartment is no longer occupied. We are here to discuss with the Zoning Board of Appeals a Use Variance for that space.

Paul Baymore was the owner when the property was purchased 34 years ago and has sought changes over time. A bit of history and time line in terms of how this evolved, the previous zoning which was RM1 apartments were permitted by going before the Planning Board for Special Exception Use and commercial use was also a trip to the Planning Board for Special Exception Use. What we found at this time was that changes that have occurred in the zoning of the Village of Walden where this became a R3 no longer permitted apartments, no longer permitted commercial tenants, no longer permitted these kinds of mixed uses. In the R-3 Zoning District what is permitted are single family residences and public parks. So that generated the need to come back in here and ask for a Use Variance because we don't have any other means of seeking a change in the use of that space as a single apartment, it is 988sf (referring to the drawing, explains the general layout of the building).

Village of Walden  
Zoning Board of Appeals Meeting  
April 07, 2016

The process of coming before the Zoning Board of Appeals is one that recognizes a change in the community we can't get it a 100% right all the time, so what we have is the process of coming before the board and having the public coming to attend, be able to ask questions and establish that dialogue, because this is all about neighborhoods. So here we have a property which is a legacy property, it's here and is different than many of the other properties in the community it's unique in its own sense. So it is always going to have some question of how we deal with it and this board is the appropriate forum. When we come to the Zoning Board of Appeals there is a prescribed methodology for looking at how the property in question and the change in question which is the Use Variance stacks up against some questions which guidance was provided for us, in terms of how to look at some of these things. That's what it is, its guidance, the community has the ultimate authority. The state in dealing with planning matters again and again pulled together the common threads and said ok there is a basis here, people have a legitimate need to get this, let's set the bar as to how they can go about seeking a Use Variance and so we're here tonight.

The building itself is right on South Montgomery Street and is a long narrow building which goes back on the site. The site itself is 2.4 acres, that is more than the current zoning requires for single family homes in the zone. When we were looking at this myself and Angie Baymore, I asked what is the problem? The simple problem was the economics. The down turn in the economy which we say in 2008 adversely affected the entire economy and we all experience it and here about in the news on a regular basis. We knew it was coming but were not aware of how close it was that commercial businesses began the transition which was long expected. What we found is that people don't lease space for offices as they did prior the economic downspin. Those numbers have continued to change, downtowns both in retail and office space and this property which had commercial uses there and they are listed as part of the report each member of the board and the tenants have basically left and now there is a single commercial tenant at the property Rose Galleries. The demand for commercial space is very very limited.

The commercial broker, Lucy Rosenberg from ERA Curasi Realty provided me with a letter of what is going on in her estimation. "In response to your inquiry as to my professional opinion about the market for residential rentals apartments in opposed to commercial space I can find that based upon the last 1-2 years of real estate trends we are finding that apartments are a much higher demand than commercial spaces. We have had some commercial space sitting on the market for lengthy terms, whereas apartments are in demand and rented out within a month of being listed. If I had a choice of having commercial space vs apartments it would definitely be apartments". I bring that up because that's what we see going on. You here in the Village of Walden recognize it; I know the Village of Walden Board has dealt several times with the issue of apartments.

I also took the opportunity to reach out to Evaluation Consultants who are certified appraisers. The reason I reached out to them, they are appraising properties so that these properties can receive bank loans for both commercials and residential properties. Mr. Greg Winer of Evaluation Consultants wrote to me "You've requested our comments on the above referenced property concerning a Use Variance for an apartment in an R3 zone district which is a resident district allowed uses are single family detached dwellings and parks. We are familiar with the Walden area and have performed many appraisals there over the past 23 years. The subject building is currently a mixed used, a church which is allowed as a Special Exception Use, and career farms a print shop and vacant commercial unit. 2 of the apartments are allowed as pre-existing uses, the most recent of which was converted in 1995 from commercial space. The subject is in a residential area comprised of R3 R4 and R5 zone districts, the nearest commercially zoned land is approximately 1500ft to the North. River Road is not considered a commercial area and demand for that type of space is none existent as there are numerous other opportunities within the Village of Walden for commercial rentals. Since this is almost an entirely a residential area the only opportunity for any type of return based on rent is to utilize the property for residential purposes."

I think his point as well as the one made by the real estate broker is that a change in the market has affected this property. The change is such that the part of the market that has returned is the residential portion of the market and the commercial application has not returned. What we are looking at right now is the combinations of historical trends where it's going to be slow to return and then changes that have taken place in the economy at large diversely affect this property. How does it diversely affect the property? Going back to the core of this issue and in chapter 6 of the report the cash flow statements that were prepared by Nugent and Haussler I gave you also there the information from 2012 when Paul Baymore had appeared before this board seeking to change the entire building into apartments. One of the key tenants that we have to address here is what is the financial impact of the property and it's been negative, 2012 the cash flow now indicates a negative cash flow of \$33,353.00, the 2015 analysis which includes the apartment decreased that to \$17,469.00, still

Village of Walden  
Zoning Board of Appeals Meeting  
April 07, 2016

negative but went from \$33 to \$17 it was based upon the fact that the other apartment was there as a residence bringing in additional income.

When real estate appraisal work is done the preferred method of valuing real estate is comparable sales, a similar building with similar size and then make adjustments to it. When you don't have comparable sales the best and most frequently perused avenue is cash flow analysis. If it doesn't make money it makes it very hard to transact the property on the cash flow analysis. We've had very very few instances of sales of mixed use properties to date. When I spoke to Mr. Winer of Evaluation Consultants, he stated you have to look at the cash flow. I'm here tonight telling you this, the same message that I got. I can go on longer if you want, it's dry but it's very meaningful for this space here. Combination of circumstances is what we are dealing with, which impact this property. It's unique, it's an orphan in the zoning, in the planning community that's what we call properties like this that end up in a zone where they really shouldn't be there but by light of the existence they are there and they are pre-existing non-conforming uses in the zone and we deal with them and the way we do that is to come to the Board. So we are asking for this variance to change commercial use of one 988sf space 12% of the building area.

Reading from page 13, the other uses under the R-3 zoning will not provide a reasonable return because they are not realizable in terms of both investment and return on investment. The permitted uses single family use and municipal park, the hardship in this case is unique in that the community has few mixed properties and change in the zone when the community changed from RM1 to R3 is what precipitated this application. The Use Variance if granted will not change the character of the neighborhood as it changes a commercial use for a residential use in a predominantly residential neighborhood. The hardship in this case has not been self-created it is the result of broader market and economic conditions. In conclusion in review of criteria set in the Village of Walden code section 305-54C with respect to general standard see 1A the applicant cannot realize a reasonable return provided the lack of return is substantial as demonstrated by competent financial evidence. In response we've listed the lack of reasonable return is demonstrated by the cash flow and the fact that we've had several years of it and can see it continues to be negative. The cash flow has been negative for several years the accumulated loss is substantial, over \$30 thousand per year. Under C1B that the alleged hardship related to the property in question is unique and does not apply to a substantial portion of the district or neighborhood. As I pointed out there are very few mixed use properties in the district and the whole Village of Walden. There are other mixed use but not in this type of a district and this qualifies the property as unique and as such it doesn't apply to a substantial portion of the district. C1C asks that the requested Use Variance if granted will not alter the essential character of the neighborhood and the response I provided is that the change in use will have little effect as noted in the environmental assessment. The variance will change the small unit 988sf from a commercial use to a residential use. C1D that the alleged hardship is has not been self-created. This is an important point that the change in zoning district from RM-1 to R-3 coupled with the market and economic conditions necessitates the change. The bottom line is there is money going out each and every time the bills get paid and no prospect of bringing that back in without there being a rentable space. This is a help, this not a solution. The best thing would be to be able to get the other 2 commercial spaces leased and have this leased as an apartment but at least this is a help in the right direction as you can see from the analysis on the cash flow. If you take the apartment out of there it changes from 33 to 17 it's a big change. Yes it's still negative but all you have to do is get one more tenant in there in one of the commercial spaces and then this begins to make sense.

I think I've given you the basis of the results, there is more information in the report and I will be happy to answer questions, thank you.

Chairwoman Pearson – We'll open this up for a Public Hearing.

**Member Moore, made motion to open the Public Hearing  
Seconded by Member Raymondo, All Ayes, Motion Carried**

Dan Svarczkopf, 64 Valley Avenue – Why are we not looking for a variance for the other spaces?

Willy Carly, 10 Evergreen Lane – I was here when we went through this before in 2012 to discuss once again a variance to have apartment there. From my perspective and others in my neighborhood is we stand in the same position. It appears that this is growing like we said in 2012 it's going to go from we only need 1 apartment to now we need two then we need three then we need four, based off what I am hearing and seeing. It is becoming a

Village of Walden  
Zoning Board of Appeals Meeting  
April 07, 2016

trend which we stated then that the reason that we bought our homes there and generally talked about when the economy changed the Village of Walden made a choice to allow single family dwellings to be built there and when myself moved there that was the intent. It was not for a multi-family apartments, commercial and things like that. It was the intent to have the single family home by itself. With that being said I was part of that church in the beginning, based on what I was hearing is your cash flow it represented the residence that was there and I interpreted it as the apartments. I didn't hear about the commercial now the church being added to that cash flow because being part of that assembly we had to pay X amount of dollars, again I didn't hear that and I just wanted to make sure that was part of it so we can be transparent in everything. My position is the intent of the neighborhood was to be single family dwelling, we don't have any hard feelings towards the tenants there the Baymore's, or anyone associated with that. The apartment was there before and we understood that this is based on a hardship and respectfully I understand and sympathize but we really want to keep our area as it looks. This is creating a pattern and if we continue down this road it will continue and people will start using it as precedence to build more and then whole intent of the neighborhood will change. There are quite a few commercial properties in the Village of Walden as stated I agree and there are quite a few rentals also in the Village of Walden and some being built to add to that. So people have places to go. I feel for the hardship but I do look towards the long term and the long term for me is, if the current owners decide to leave and then someone else comes right behind them and they say when we bought the place all variance we have apartments and now we're in a hardship also now so we want to add to it. Based off the hardship rule they may or may not get the variance. We ask the Board to take that into consideration in making your determination. If 988sf is large and turns from 1 apartment to 2 apartments or even 3 will we be trending.

Maureen Drury, 195 South Montgomery Street – I am 2 properties down South West of this, my back porch looks directly across to the back area of the building. I don't have any problem with it being an apartment or a business. It's always been quite, pleasant; I don't have a problem with it.

Willy Carly – I agree and it's true it has always been quite, there haven't been any problems.

Dan Svarczkopf – As a resident of the Village of Walden and a realtor as well, empty properties are the worse. When you drive through Village of Walden there are a lot of empty commercial buildings. I wouldn't want an empty building next to me, I would rather there be a tenant there, whether it a multi-family or a single family. So there are not squatters or illegal activity going on there. I understand the essence of the neighborhood is single family but this is an existing building. They can't sell it, if there is negative cash flow and there is no variance they will never be able to sell the property and eventually the owner will let it fore close and then it will be another empty property.

Chairwoman Pearson – Any other questions/comments from the Public? None noted.

Robert Daly – Why not the other spaces? I wasn't involved with the property back in 2012, but Paul Baymore had brought in a request to have it changed into 9 apartments. I think there were a lot of adverse opinions as to what was going on and the finding of the Board at the time was in the no they wouldn't approve this change. When I looked at it I said let's address the issue in terms of the apartment that's there and have it be a single change, 988sf. Why not bring the rest of them? I personally thought, you were just there 2 years ago and everyone was saying you can't have that so let's do this change one residential, but any time that you want to change another space to an apartment you would have to go through the exact same process again. You're not setting precedence; this use was here before the buildings were constructed on Evergreen Lane. Its uses were here prior to any of the residences taking occupancy on Evergreen Lane.

It's a legacy property; it's what we deal with in the planning community on a regular basis. You get older properties and the questions how do we fit the newer properties and the older properties together so that it makes sense? They're all viable we want to see nicely kept properties we want to see people who take pride in their property because that's where the value of neighborhood is. So I said here's a case you have a legacy property, you didn't create these problems. Before you had a process where you could go if you wanted to change it, you sought a Special Exception Use Permit. You completed an application, went before the Planning Board for that Special Exception Use Permit. That process has been foreclosed with the change to an R3 zone. So this orphan

Village of Walden  
Zoning Board of Appeals Meeting  
April 07, 2016

property bears the burden of having to come in for each and every change that it wants to accomplish at the property.

Here's what you've got, you've got the one do the one and then we can see if the commercial market comes back in any sense or strength then you will have the opportunity to rent the commercial spaces. The property will continue to be residential and commercial; we're not going to change the character, if anything having apartments in there we know it's much much stronger. If you changed it to all apartment it would be fine, the place would rented out and that would be that. But that's now what the application that we came in for, we came in for a single change from a commercial space to a residential use. The concerns of neighborhoods are legit and I understand Mr. Carly. Each and every time they wanted to change it the same procedure would be in place. That's the protection of the Zoning Board of Appeals process on behalf of the people in the R-3 Zone.

Maureen Drury, you don't have a problem with this, thank you.

Dan Svarczkopf, empty property, lower values, there is truth there. Why not come in and do all the spaces? Because this is the one that was a sore thumb for us, Building Inspector Stickles came said you can't have it there. The tenant is no longer in there and we are waiting for the decision of the Zoning Board of Appeals and we felt this was a reasonable request. It doesn't drastically alter the spaces; it's not going to change the neighborhood.

Chairwoman Pearson – Any other questions/comments by the Board?

Member Wesenberg – Looking at the cash flow analysis the person leaving in suite D why can't they live in suite B?

Robert Daly – It's a smaller apartment.

Member Wesenberg – So they could live there instead of living in D with a variance.

Robert Daly – It's the difference between a one and two bedroom apartment.

Member Wesenberg – You couldn't rent out the one bedroom apartment and if so how much would you be renting it out for? We have to look at the 4 criteria's; I'm looking at this and asking have you tried to rent out suite B. Did you say to those people who were in suite D would you like to live in suite B? What was the value of it?

Rep – It's the old story everyone wants more space.

Member Wesenberg – Do you have any proof that you tried renting out suite B?

Robert Daly – I can have a broker provide a letter saying were trying to rent it. We don't think that's going to be a problem to get it rented, but one bedrooms are not as popular.

Member Wesenberg – How much is the rent for suite B?

Robert Daly – I don't know that.

Member Moore – Looking back at the past years cash flows it was \$900 and that was what it was in 2012.

Member Wesenberg – What exactly is Cleaning and Maintenance for \$14,405? When you're saying the cash flow deficit is \$17,000 I would like to know what cleaning and maintenance is.

Robert Daly – When there are multiple uses at a property and in this case you have combination you have a commercial uses and residential tenants there is an ongoing need to maintain the property and keeping it clean. Picking up things outside, cutting the grass, leaves, branches, cleaning exterior, windows, siding.

Member Wesenberg – I do the same thing and don't get paid \$14,405.

Village of Walden  
Zoning Board of Appeals Meeting  
April 07, 2016

Robert Daly – Perhaps you should.

Member Wesenberg – You're trying to say that you can't make a reasonable return on this property. What I'm saying is \$14,405 is not part of a reasonable return.

Robert Daly – And I would say that you are in error, it's pretty simple. I was giving you the information that was provided by the accountant. If you feel that the information is incorrect you're entitled to an opinion of that. But I'm not calling that information into question here. This is 6 units of people living here, 2.4 acres of land, pavement that needs to be cleaned and brush that needs to be cut back and trimming. I can get a list of what it is, but the reality is in providing this information I think it would be wrong to say that this isn't a legit number because I don't have that expense.

Member Wesenberg – I am saying in order to show a reasonable return you have to show that you cannot pay your bills, which are the taxes, the mortgages etc.

Member Raymondo – Untimely if I understood what you said, eventually you will try to convert all the commercial space into apartments by doing it one at a time?

Robert Daly – I did not say that.

Member Raymondo – But that could happen.

Robert Daly – Yes it could or the economy if it were to go the other way you would come and say I would like to turn them all into commercial space. But it has to happen here before the Zoning Board of Appeals under the current zoning. That's the only alternative we have is to come to the Zoning Board of Appeals to ask for a Use Variance. So we would come one at a time if that were the case. I don't want to give the Board the sense that that's what the intent is because it is not at this point. If it were that's what I would have done.

Member Raymondo – But you recommended to the owner either way you're better off having apartments. It's tough to rent commercial space in Village of Walden right now.

Robert Daly - It is and that was the recommendation from the real estate broker and from an appraiser and it's also mine, but this was the issue that came in and was just for the single apartment.

Member Moore – Of the 3 remaining commercial units should this variance be approved, what percentage of the total square footage would actually be commercial then? I know the apartment that is being recommended would be only 12% but what percentage of the building square footage would remain commercial?

Robert Daly – I can get that number for you.

Member Moore – Obviously the caretaker apartment I saw that it was 2,200sf, but the other apartment that's the one bedroom for suite B do we know the square footage on that? Does it meet the criteria for apartment?

Robert Daly- I don't believe it does. It's an existing apartment that pre-dated that.

Chairwoman Pearson – I see that this is now an LLC, before when it came before the Board it was privately owned and now it's an LLC? Can you tell me about the members, are they all members that are here tonight? How many members are they? Can we get the names of those members?

Robert Daly – This is an LLC, the information as any LLC is information of record. The Board is entitled to know the owner of the property and the owner of the property is River Road Properties LLC has a legal identity as River Road Properties LLC.

Chairwoman Pearson – How many members does it have?

Village of Walden  
Zoning Board of Appeals Meeting  
April 07, 2016

Robert Daly – I can't tell you that.

Chairwoman Pearson – You can't or won't, is it not something that I need to know?

Robert Daly – I just don't know.

Chairwoman Pearson – I also belong to an LLC and I know that all those acting members have to have a say in what is happening with that project and I'd like to know if she is just a member or is she the managing member? There's usually a secretary and treasurer is she all that in one or are there more people involved?

Robert Daly – Angie Baymore is the operating officer for the LLC.

Chairwoman Pearson – She is the only member of the LLC then?

Robert Daly – I don't know that.

Chairwoman Pearson – Ok, is there a way the Board can find that out?

Robert Daly – Under the law which we recognized, a corporation for a LLC is an entity with all of the rights of the individual to exist and what we need beyond that is a matter of public record.

Chairwoman Pearson – Ok, so the property was bought 34 years ago for \$55,000.00 that's what it said in the deed. That's 34 years to pay that property off and you still have a large mortgage payment and I was just questioning that as well. Did they take out other loans? I don't see any of that; why that has not been paid off yet after 34 years. I just question where that money has gone.

Robert Daly – Over time as any homeowner would understand the process of maintaining a property means you will do electrical work, you'll do plumbing work, a new tenant comes in and you need to change appearance, ongoing just painting and things of this nature all become parts of what needs to be done for the property. When you say where's that money go I'm not sure what you're asking?

Chairwoman Pearson – You have to pay your mortgage and I'm asking how long is that for and when the LLC took over was there any additional fees that had to be paid or was it still just transferred to a LLC? What has changed since 2012 when you came before the Board in that property besides putting in an apartment in that was not supposed to be put in?

Robert Daly – That's it. Building Inspector Stickles was there he can tell you.

Chairwoman Pearson – Do the Baymore's still live on the property because it is owner occupied. With an LLC how does that work when it's owner occupied in this apartment building that they were approved for? So if it's an LLC and she's the member does she still there, how does that work?

Robert Daly – Yes the Baymore's still reside at the property.

Chairwoman Pearson – So they still live there in the apartment that was built for them. The 988sf apartment who measured that and who says that's correct, you?

Robert Daly – Yes.

Chairwoman Pearson – So your name is on that 988sf?

Robert Daly – That was owner provided document.



Village of Walden  
Zoning Board of Appeals Meeting  
April 07, 2016

Chairwoman Pearson – The Board got that in 2012 as well. I wanted to know if whether that was a real number and who is going to stand behind that number.

Member Matisse – Does the apartment have an egress directly to the outside, suite D? It isn't clear on these drawings.

Robert Daly – Yes.

Member Matisse – Is there a sprinkler system in the building?

Robert Daly – No there is not.

Chairwoman Pearson – Does there need to be?

Building Inspector Stickles – The need would be based on the square footage of the building, and the Building Code.

Chairwoman Pearson – The apartment that they're in now is it on one floor and was it always on one floor or was there different floors levels in that apartment?

Robert Daly – I don't know.

Angie Baymore– There was a step up.

Chairwoman Pearson – Is it there now?

Angie Baymore- No.

Chairwoman Pearson – You took it out and made the floor level somehow?

Angie Baymore– Yes.

Chairwoman Pearson – So without any building code the Board doesn't know if that was a legal way to build that floor to make strong enough for people to be on? The Board didn't have any inspections when you did through the Building Department so we don't know if its function properly, correct electric etc.

Angie Baymore– We had it inspected.

Chairwoman Pearson – By Village of Walden Building Inspector?

Angie Baymore– No.

Chairwoman Pearson – That's what should have happened. Was this property ever so sale at any time?

Robert Daly – Not to my knowledge.

Chairwoman Pearson – Yes, I would like to hear from realtors what they are trying to do for this property as well. So this apartment is in there and not legally so why wouldn't that be self-created as a hardship for you. You created your own hardship because you put in this apartment that was not supposed to be put in there. Your hardship is not created by us; your hardship was created by you.

Robert Daly – I think what you are focusing on is the narrowest interpretation and it is an interpretation of creation of the hardship. I choose not to take that as the focus of what I provided you here. The hardship would not have come about were it not for difficult economic conditions. Were if not for a change in the community zoning which



Village of Walden  
Zoning Board of Appeals Meeting  
April 07, 2016

then cut off the opportunity for this property to go to the Planning Board to seek a Special Exception Use Permit. In the new zoning when you put the R3 zoning in place the community cut off the opportunity for this property to be changed other than come to the Zoning Board of Appeals.

Chairwoman Pearson – Let's talk about the usages in this zone since you're bringing it up again. I'm going to go down the list for R3. Planned residential development which you say is not feasible but it possibly could be if you chose to do it. Also a senior group residence, now that would be a perfect thing for the community if somebody wanted to change it with a Special Exception Use. Which means you go before the Planning Board and you'd be able to get some usage that would be perfect. It's within walking distance to the Village of Walden.

That's why I sometimes can't think in the way you are thinking because I see some other uses that would be perfect for that spot. There is a church there already. A golf course, no there's not enough property unless you do a putt putt. Public or private school, we just did something very similar to that for another piece of property in the Village of Walden which we hope is going to be very successful and it's in a residential neighborhood and we are very excited about that. We are really not here to pawn or discredit what you want to do, but there are others things like a day care center. I know have somebody that would love to buy a piece of property in the area for a day care center.

Those are issues that can happen, not that you have to sell the property maybe you can rent it to them. There are other ways to get around this without having to do a Use Variance. Use Variances are very difficult to get and very difficult to grant because we have 4 criteria we need to go through. A municipal park, you could always sell the property to the Village of Walden maybe, they are looking for a community center and that would make a beautiful little park. For the right price it doesn't mean that can't happen. A hospital or nursing home.

Agricultural or truck and farming livestock, which it was before. You could have a gravel operation with a Special Exception. But then there is your committed which you listed before which is your care taker dwelling which you do have. Home occupation, home special office, private garage, so I think there are some other ideas in there that can be utilized and I don't know if they were or were even thought about. I'm thinking that there a few things that would be beautiful for that situation. Those are my thought and if you have any comments that would be fine.

Robert Daly – We did go through them and as you saw there is a page where I did evaluated them. Most of them they're reasonable ideas on the surface until you look at the cost of rehabilitations or the cost of taking the building down or the additional costs you get into for structure use you get into, in terms of the senior access use wide doors, levels, lighting. Right away the numbers begin to go up very quickly.

I gave you some figures that we had done on some of these construction projects and as we looked at them any one of these that you're talking about, the space they need is the entire space or a large part of it which we don't have available to them. So they really aren't feasible from the point of view, if you don't have suitable space and the cost of perusing that option. I did make an effort and going through them I did the same kind of thinking that you were doing. In my business I am involved in planning and building out projects so I am very familiar with both the security need approvals and then constructing a project. The numbers are considerable, that is a major barrier when you're sitting in a property where you're already in a negative cash flow situation to say we would like to entertain this idea but now we have to come up with a couple of hundred thousand dollars in order to entertain the idea. Because it would require a process and approvals and planning related documents and then at the end of that process time will have elapsed. If we say it today 2-3 years is a good time frame for a project today. What we're saying is we want to entertain this idea but it may be 3 years before we open the door and get dollar one in and in the meantime we will have to continue to use the space.

Chairwoman Pearson – Ok so you said that, how long ago did that apartment get put in there, the apartment we're talking about today? How many years has it been sitting there and being used?

Village of Walden  
Zoning Board of Appeals Meeting  
April 07, 2016

Robert Daly– A year.

Chairwoman Pearson – A year?

Robert Daly– It's been vacant for 3 years as commercial space.

Chairwoman Pearson – And it's only been an apartment for a year?

Robert Daly– That is correct.

Member Moore – How long has it been since Building Inspector Stickles found out there was an apartment and then the tenants moved out and it's been empty again?

Robert Daly– They just vacated I think it was last month.

Chairwoman Pearson – Have you ever had any offers on the property to sell it or tried to sell it?

Angie Baymore – The church wanted to buy it but didn't have the money. But no we never put it up for sale.

Member Matisse – The nature of this LLC can they solicit investors in the property?

Robert Daly– There's a 2 part to that. Can they? They can do anything that a LLC is allowed to do, so yes they can but they have not.

Member Matisse – But the potential is there if they wanted to seek investors.

Robert Daly– Yes, but the problem is when you show someone a cash flow analysis and its negative it's hard to induce investors.

Member Matisse – I understand that, I'm just questioning the potential.

Robert Daly– Absolutely, under the laws of the State of New York when the LLC was formed yes.

Chairwoman Pearson – When you bought the property originally 34 years ago what was the intent of the property then? It was zoned RM1 at the time and you were able to put in apartments then and chose not to do it. So what was the intent of the use of that property then?

Robert Daly– There were apartments in there.

Chairwoman Pearson – Yes, through the Special Exception Use.

Robert Daly– That was the intent. It was an investment property.

Chairwoman Pearson – As commercial use is what it was intended for?

Robert Daly– As commercial and residential.

Chairwoman Pearson – There was only 1 apartment in there in the beginning and then you got a Special Exception Use for a second apartment. So the intent of the building was always commercial in the original purchase of the building.

Robert Daly– It was mixed use; it was a residence as well as a commercial space.

Village of Walden  
Zoning Board of Appeals Meeting  
April 07, 2016

Chairwoman Pearson – Will the character of the neighborhood be altered if the Use Variance is granted? That a question.

Member Wesenberg – Didn't you say the mortgage was \$55,000.00?

Chairwoman Pearson – They purchased it for \$55,000.00 and that was in the very back on the deed.

Member Wesenberg – Then why mortgage so much more?

Robert Daly– I don't know.

Chairwoman Pearson – As a board we need to see numbers in order to approve anything.

Robert Daly– I'm not sure what number you need to see. You want an explanation of the number?

Chairwoman Pearson – Yes, we would like an explanation of the number.

Robert Daly– Tell me specifically what you want to know, like how that mortgage money was reinvested in the building?

Member Moore – What I would like to know is the terms of the current mortgage and who actually holds the mortgage. Is it in the LLC names, so the terms, interest rate, how low it was for, those types of things? Also the actual listings for the rental agreements on the commercial pieces as well as the one bedroom. I want to see what dollar per square foot they're looking for on a commercial, because as a commercial landlord in the Village of Walden I know what that goes for and the same for the one bedroom apartment I was to see the history of that too. I know sometimes it's hard to rent things especially commercial property but I want to see the history. Also the listings from Nugent & Housler that calculates the number of the increase of the maintenance from 2012 from 5680 to 14400, again I know maintenance is involved especially when you have to do things. But in my opinion that \$14 thousand should not be inclusive of the apartment that they put in illegally. I want to see how the breakdown of that number came about and I want to know the exact square footage of the commercial spaces that would be left should this get approved. Because I want to know the exact percentage.

Member Wesenberg – Have you tried to rent out the commercial, do you have any proof that you've tried renting out the commercial?

Chairwoman Pearson – What changed from 2012 when you weren't approved to now?

Member Moore – I think they said the market.

Chairwoman Pearson – The market has been like this since 2008.

Robert Daly – As things got a little better in the economy we saw that there were people looking for rental residential apartments than any other type of space, especially as Orange County continued to see a state of foreclosures, which we are still see today. You see people actively looking for alternative housing and with the loss of wages and lose of savings of people who were able and capable to purchase single homes. As that has come to the point where they want to be out of the house so to speak they're choices are very limited, it's apartments.

Member Wesenberg – Was the LLC around 2012?

Robert Daly – No, 2014.

Chairwoman Pearson – I would like the names of the members of the LLC and are they the same people who are the owners or not?

Village of Walden  
Zoning Board of Appeals Meeting  
April 07, 2016

Member Wesenberg – Did the LLC purchase from the Baymores?

Robert Daly – Was just a transfer.

Member Moore – I was possibly a tax thing for them to go from self-employment.

Member Matisse – Was that coincidental with your saying the owner is retired and that this retirement income? Is the transfer coincidental with that?

Robert Daly – Looking at section 1 the clerk's office recording fee shows this property being transferred from Paul Baymore Sr. to River Road Properties LLC the 3<sup>rd</sup> of February 2014.

Member Matisse – Is that coincidental with the change in the owner's income and potential for income?

Robert Daly – I don't know.

Member Matisse – Maybe you can find out.

Member Raymondo – The owner presently pays for utilities for the entire building?

Robert Daly – Yes, for most of the building, not the entire building, I think the heat and electric.

Member Raymondo – So the apartments are not individually zoned?

Robert Daly – That is correct.

Chairwoman Pearson – So we would like information about the utilities also.

Member Moore – Proof of the utilities what the LLC paying on the property and what the pieces of the property pay utilities on their own.

Chairwoman Pearson – We won't be making a decision this evening. This meeting will be carried over to the next meeting, tentative date of May 5, 2016.

**Member Raymondo, made motion to keep the Public Hearing open  
Seconded by Member Moore, All Ayes, Motion Carried**

Chairwoman Pearson – There will be no notice with the Public Hearing being open.

**Member Wesenberg, made motion to adjourn the Zoning Board of Appeals  
Seconded by Member Moore, All Ayes, Motion Carried**

**B. FORMAL APPLICATIONS:**

**B.1 175 South Montgomery Street, Use Variance**

**C. DISCUSSION ITEMS:**

**D. INFORMATION ITEMS:**

**E. CORRESPONDENCE:**

**3. COMMUNICATIONS:**

**4. EXECUTIVE SESSION:**

**With no other matters in front of the Zoning Board of Appeals  
Member Wesenberg, made a Motion to adjourn,  
Seconded by Member Moore, with all members voting yes.**

**MEETING ADJOURNED:                      900 pm**

RESPECTFULLY SUBMITTED  
April 07, 2016  
Nancy LaMancuso  
Zoning Board Secretary