

Minutes
Zoning Board of Appeals
August 8, 2013

Board Members Present: Donne Lynn Winslow, Alan Hall, Sr., James Cooper, Mark Morey, Harold Moffitt

Others Present: Mr. and Mrs. David Mineo, Charles Mineo, Dean and Deborah Kennedy, Patti Corlew, Chris Belden (Zoning Administrator)

Meeting Commenced at 7:00 p.m.

Mr. Cooper - Okay. I'm going to call the August 8, 2013 meeting of the Warrensburg Zoning Board of Appeals to order. Let the record reflect that all five board members are present and seated. The first item of business on the agenda is the approval of the minutes of July 11, 2013.

Mr. Hall - (Inaudible).

Mr. Cooper - Do board members have any corrections or amendments?

Mr. Hall - I'm going to have to say no 'cause I can't find the mistake that I (inaudible). Sorry.

Mr. Cooper - I page 64, about an inch a half up from the bottom, the line starting "you should be harking". It should be harkening, K E N I N G. Any other changes? Okay. Any changes, Donne Lynn?

Mrs. Winslow - No.

Mr. Cooper - Alright. Let the record reflect that the minutes are approved as amended by consensus. The next item of business on the agenda is matter of Origin Enterprises, LLC. Have we assigned a number to this one or just the name? Oh, I see it.

Mr. Hall - 2013-3.

Mr. Cooper - Yes, it's ZBA 2013-3. There it is. Sorry. I overlooked it. Mr. Belden, will you raise your right hand please? You swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Belden - Yes, I do.

Mr. Cooper - And who's going to give the presentation here, all three of you or of just one?

Mr. David Mineo - I don't think my wife will, but my brother and I (inaudible).

Mr. Cooper - Okay. Would you state your name for the record please?

Mr. David Mineo - David Mineo.

Mr. Cooper - Would you raise your right hand please? Swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. David Mineo - Yes.

Mr. Cooper - And your name sir?

Mr. Charles Mineo - Charles Mineo.

Mr. Cooper - You swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Charles Mineo - I do.

Mr. Cooper - Alright, Mr. Belden, as is the custom of the board, can you explain how this matter comes before us?

Mr. Belden - Sure. The Mineo's are seeking a use variance for 3873 Main Street to allow automobiles sales on the property, which is not a permitted use according to our revised zoning ordinance as of May 9 of 2012. There are also, my determination I guess, my, my determination to prevent them from, for using the property for automobile service is (inaudible) automobile garage; however, I, I'm under the opinion that the use lapsed before the zoning changed. That's another part of their application.

Mr. Cooper - This is the Corner Garage property?

Mr. David Mineo - Yes.

Mr. Belden - At the, across from the bandstand.

Mr. Cooper - Okay. I will address you generally on this (inaudible). Use variances are intended by the law to be hard to get. The reason is, the law presumes that the town in its wisdom studied very hard, came up with a master plan that is in the best interest of the community, debated the pros and cons of the districts and the uses allowed in them and approved or disapproved a law. IN the case of an approval, they say well, ya know, you can't come back and rewrite it every a couple of years because we've gone through a process that reflects the law of the community. This zoning ordinance, the original one went into effect, I believe in 1988 and when was the second one, the one we're operating under now, approved, a year and a half ago?

Mr. Belden - May 9, 2012.

Mr. Cooper - So that's been in effect just a year and a couple months. All the board members are, as you can see, we've got a few years on us. I'm sure most of us have personal knowledge of that corner and how it's been used over time and most of the, all of the board members here have been residents of the community since at least the 1970's (inaudible).

Mr. Moffitt - I came here in (inaudible).

Mr. Cooper - Okay, well I guess that qualifies you as a flatlander, but the rest of us has been here since the 70's.

Mr. Morey grew up here. Mr. Hall's been here since the memory of man runneth not (inaudible) contrary.

Mr. Hall - Thank you.

Mr. Cooper - So we're generally familiar with the property and the uses that we made of it here. Why don't you tell us your story or your recitation of facts that you think is most persuasive and then we'll get into the details of the law and how it applies in your situation. So who's going to speak first for your side?

Mr. David Mineo - I guess I will.

Mr. Cooper - And your name is, again?

Mr. David Mineo - David Mineo.

Mr. Cooper - Go ahead, Mr. Mineo.

Mr. David Mineo - Okay. Well, when I filled out the, the application for the use variance, I think, if anyone has reviewed it, it's pretty speaks to that. The garage (inaudible). We had no idea that the zoning was changed in that corridor. We were never notified of any change. I know that when I spoke to Chris, he had said that there were announcements in the paper. Quite frankly, I very rarely read the paper, as do many people. (Inaudible). But at any rate, I've spoken to other property owners in the area in that corridor. Many of the property owners were not aware that there was a zoning change. We, prior to this, in that building, (inaudible) the garage, automobile repair and sales were allowed uses. The building is designed pretty much for that (inaudible) the Corner Garage property. So it's (inaudible) of you who have been here for many, many years (inaudible), so you're very well aware of what (inaudible) property was use for. Since the 1960's, that I know of, (inaudible) repair shop or (inaudible). I think it's, as I started to say, the design of the property is such that it facilitates that use (inaudible) primarily a garage (inaudible). It's ideal for that use. It has a, an office area adjacent to the garage facility. We have been, the last tenant in the building used it as an automobile repair shop. We've been trying to lease that now for over a year. The only inquiries that we've had have been people that use an automobile repair shop. We really haven't gotten any inquiries at all other than (inaudible). I think that's, that's the overview that I think (inaudible). We have someone that's very interested. He is right behind us. They're not new to the business. They currently own and operate an automobile dealership. (Inaudible). They're very interested in that property, and they'd like to sign a, a four year lease. (Inaudible) I said sure, just go down to the Town Hall, tell 'em what you want to do, get a permit. And he came back and I found out that that was no longer allowed.

Mr. Cooper - I'd like to, if you'll permit me, describe the property for the record. You know, you may not be happy with

what we do here tonight or you may walk out of here skipping, I don't know. But if you decide to go to Court, it would be nice to have a complete record for the judge to review.

Mr. David Mineo - Okay.

Mr. Cooper - So let's...

Mr. David Mineo - Thank you.

Mr. Cooper - Let's discuss the building itself. All of the remarks you've made are about the first floor so far. Correct?

Mr. David Mineo - Correct.

Mr. Cooper - And on the second floor you have tenancies, do you? Just rental apartments?

Mr. David Mineo - That's correct.

Mr. Cooper - Is there a third floor?

Mr. David Mineo - There is.

Mr. Cooper - And are there rental apartments in that?

Mr. David Mineo - One.

Mr. Cooper - Okay. And then the first floor, there are two automobile entrance bays. Correct?

Mr. David Mineo - That's correct.

Mr. Cooper - And as you said, there's an office, I guess you worked on it last year. I saw some masonry work going on there. Let me inquire with you, sir. When did you buy the property?

Mr. David Mineo - In the mid 80's, 84, 84, 86 (inaudible).

Mr. Cooper - And when you bought the property, was there a tenant or somebody operating a garage in the bottom?

Mr. David Mineo - Yes.

Mr. Cooper - ...of the structure?

Mr. David Mineo - Yes.

Mr. Cooper - Who was that?

Mr. David Mineo - Terry Venum.

Mr. Cooper - Okay. Did he continue to operate the garage for a period of time?

Mr. David Mineo - Yes, he did.

Mr. Cooper - When was the last time Mr. Venum operated it?

Mr. David Mineo - I would say mid 90's, mid to late 90's.

Mr. Cooper - And was there any interruption in, at that period of time in the operation of the garage?

Mr. David Mineo - (Inaudible) 16 months.

Mr. Hall - It took Brad that long to go in there?

Mr. David Mineo - Sorry? Yes, yes, it did. We could probably go back and look (inaudible).

Mr. Hall - He operated a repair shop and a motorcycle inspection shop (inaudible). He inspected mine.

Mr. Cooper - What was the name of that tenant?

Mr. David Mineo - Bradley Wilson.

Mr. Cooper - And he operated a garage out of that lower floor of the structure for how long?

Mr. David Mineo - For the better part of ten years, I would say.

Mr. Cooper - So was it 2004, 2005? Is that what you're saying?

Mr. David Mineo - Beyond that.

Mr. Cooper - How long has it been vacant?

Mr. David Mineo - Two years.

Mr. Cooper - So he did it until 2010 more or less?

Mr. David Mineo - Yes. (Inaudible). It's probably more, probably closer to 15 years (inaudible).

Mr. Cooper - Okay. And when he left the operation, can you be more specific as to the date he left, other than 2010/2011?

Mr. David Mineo - Not (inaudible).

Mr. Cooper - And there's been nobody in there operating it as a garage since that time?

Mr. David Mineo - We actually applied for a, operate it as a vehicle repair shop. The State agreed to that.

Mr. Cooper - So you got a license from the State to put somebody in there to operate it as a repair shop.

Mr. David Mineo - Origin Enterprise.

Mr. Cooper - And this was after 2010?

Mr. David Mineo - Yes.

Mr. Cooper - More or less. Perhaps 2011?

Mr. David Mineo - (Inaudible).

Mr. Cooper - Did anybody actually go in and operate under that license?

Mr. David Mineo - We started to do a little bit of repair ourselves, but no, not really (inaudible).

Mr. Belden - I think that certificate is part of your packets. It's towards the...

Mr. David Mineo - It is.

Mr. Belden - ...back part of the application.

Mr. Cooper - Mr. Mineo, before I forget to you ask you this, is this, is the use variance approval... Now this is dated 1/31/12, the date that you got the certificate. Does that refresh your recollection?

Mr. David Mineo - Yes, I have right here in front of me (inaudible). That's when we were actually (inaudible).

Mr. Cooper - Okay. The question I want to ask you is, are these two applications for variances, 2013-4 and 2013-3, the one we're currently discussing, are they inextricably tied together? In other words, if you don't get the use variance for the display shop, is your projected tenant interested in the garage?

Mr. David Mineo - I don't think so.

Mr. Cooper - So they are tied together in your mind?

Mr. David Mineo - Yes, because the one would be for a display lot.

Mr. Cooper - Well, that was the logical conclusion, but I had to have you tell me on the record. Okay?

Mr. David Mineo - Yes.

Mr. Cooper - Alright. And has there been any other use of the property since Mr. Brad Wilson moved out by any, by any person other than your own personal car repairs?

Mr. David Mineo - (Inaudible) first floor?

Mr. Cooper - Yes. Well, let's say from now on when I say the property, I'm talking about the first floor. Okay? Unless I indicate otherwise. And just so there's no confusion, your use of the property for your own purposes was not commercial in the sense that you serviced anybody else there and they paid you consideration.

Mr. David Mineo - Correct.

Mr. Cooper - Is that right?

Mr. David Mineo - That's correct.

Mr. Cooper - It might have been done in connection with your laundry business. Maybe you fixed a truck there or something.

Mr. David Mineo - (Inaudible) our vehicle (inaudible).

Mr. Cooper - Put it up on a lift maybe and fixed the tire, put brakes or something.

Mr. David Mineo - (Inaudible).

Mr. Cooper - Okay. And do operate a laundry in town here as well?

Mr. David Mineo - Yes.

Mr. Cooper - And you have vehicles you use in connection with that?

Mr. David Mineo - We do.

Mr. Cooper - Alright. I want to explain something to you that this is going to determine your, the outcome of your application because it's my observation and there's five board members here. But you, you proceeded on the wrong tack on both of them in my judgment by trying to show that the use of the property is unprofitable. There's a mountain of case law that says it isn't the Town's responsibility or the board's responsibility to give you a variance to make the property profitable. So that's if, if that's where you're laying up all your marbles, at least with this board member, that's not going to be successful. Okay?

Mr. David Mineo - Okay.

Mr. Cooper - What you have to show is that strict application of the law to this property causes an undue hardship to you because of the condition of the property. Alright? And so if you have a zoning ordinance that says these are the criteria for use in this spot and it's physically impossible to use that spot for that reason because of slope, maybe water table, size, something like that, those are the kind of things that you're supposed to look at in the use variance application. So let's talk about the lot for a minute if I can, alright?

Mr. David Mineo - Sure.

Mr. Cooper - It's essentially a triangular lot, is that correct?

Mr. David Mineo - Which one are we... Are we moving now to...?

Mr. Cooper - No, no. We're, we're still on the corner garage.

Mr. David Mineo - Same lot, okay. Yes, yes, pretty much.

Mr. Cooper - And I want to make an observation to you. I don't think it has anything to do particularly with the use variance at this stage. It might if we get to the question of the environmental impact, but my office is nearby there. I walked by and through the property quite frequently all seasons of the year and I've observed that when they plow snow off of that property, it ends up in the Town's road, Town street or it gets pushed behind the building and blocks the sidewalk. Either way, people have to walk around this mountain of snow that came off of the lot out into the street and proceed along the sidewalks. Similarly when Mr. Wilson was there, cars were parked across the sidewalk. So if somebody wanted to walk around that hoop or whatever, or use it to get to the crosswalk where they would push a button to have the light change, they'd kind of have to duck through the cars, which wasn't an issue because he never came running around and said stay off the property or anything like that. But these are two, seem to be, intractable problems that you have with the property. Whoever owns it or whoever operates it, whatever they operate it for, if they want to clear the front of it from snow and ice, there's no place to clear it to, essentially, without jamming it someplace in, that violates the public's right to use the sidewalks and roads. So I'll make that observation for you. I don't have a chip on my shoulder about it. It's just... It's the way it is.

Mr. Mineo - I understand.

Mr. Cooper - Okay. Any other board members, before we start to examine the use variance criteria, any other board members want to ask Mr. Mineo any questions?

Mr. Hall - No, but I'll kind of work on your statement. For all the years that I can remember, it's been a common practice of the town to pick that snow up as it's pushed out there, because of the fact that there's no place else for the business to push it. I just assumed that it was a courtesy the town supplied. I never heard anybody take 'em to court or anything, so. I remember clear back when I worked for Dick Beswick at the Shell station there, we pushed the snow out there. Town picked it up and took care of it. Probably guilty of piling that snow up. Again, that's just a handshake working deal with the town as far as I know. I don't think there was ever any contract as such.

Mr. Cooper - Mr... Do you disagree with anything I said factually, other than the, the stuff about the snow and whatnot 'cause you wouldn't be there to see that. But I mean, as to the physical description of the lot or anything..?

Mr. David Mineo - The triangular shaped lot?

Mr. Cooper - Yes.

Mr. David Mineo - (Inaudible).

Mr. Cooper - Okay.

Mr. David Mineo - I'm not really privy to way he plows. It's been, it's been in the lease that the tenants took care of the snow removal and so I'm not, I really haven't observed..

Mr. Cooper - Well, put a bookmark on that question 'cause it's a concern I have about the other lot too, okay.

Mr. David Mineo - Sure.

Mr. Cooper - Although I think you have a little more latitude there to jam it towards the back. Why the town decided, when they created this Core Commercial district, to make garages and auto sale dealerships as unpermitted uses, I can explain. I actually served on that committee and I can't remember what, when the subject came up or what the reasons were, but here we are. We've got a law to enforce and there's one thing in here which I think is in your favor and may auger to your benefit in your argument with Mr. Belden about whether this is grand-fathered or not, okay. And I'll call my other board members' attention to page 45 of the ordinance. The top of the page, paragraph A, continuation. This allows for what is commonly called grand-fathering. It says any non-conforming use which exists lawfully at the date of the enactment of this local law may be continued subject to the following provisions. You're going to get a lot of mileage out of that, it doesn't appear to me because at the time Brad Wilson left the property, the other law was in effect. That only gave six months before you lost your grand-father privilege. Mr. Belden, I believe part of your argument is that six months came went. Is that right?

Mr. Belden - Yes.

Mr. Cooper - So within the period of time that Brad Wilson left the property, there was no use as a garage, car dealership or display lot for at least six months, and if not, more.

Mr. Belden - It remained vacant for some time.

Mr. Cooper - Do you have any idea exactly how long it was beyond six months?

Mr. Belden - I was actually... I know you guys were talking about Brad moving out in like 2010 and I was thinking more about 2011. I know I had some car issues and I actually contacted him at some point. I thought it was somewhere maybe Spring of 2011, so maybe, maybe I'm wrong on that. Maybe it was in 2010. I guess we're talking about a year, a year or more.

Mr. Cooper - So there was at least in your, in your recollection, a period of at least six months between the time Brad Wilson moved out and the time the new zoning ordinance went in. Is that right?

Mr. Belden - Yes. And even though that, even though the use of an auto, automobile service was still permitted in that district until May 9, 2012, the use was no longer in existence. It was discontinued.

Mr. Cooper - I understand that. I think everybody else does too. It was a lawful use, but it wasn't used for six months, it continued to be a lawful use.

Mr. Belden - Right.

Mr. Cooper - Right up until the two, until the new zoning ordinance was enacted. Correct?

Mr. Belden - Correct.

Mr. Cooper - What was the date of that?

Mr. Belden - May 9, 2012.

Mr. Cooper - Okay. Now was there any operation of the premises?

Mr. Mineo had indicated he doesn't think there was, but to your knowledge, was there any operation on the premises for a sales lot, a display lot or a garage between May 20, 2012 and as we sit here tonight?

Mr. Belden - No, not to my recollection.

Mr. Cooper - Okay. And under the new ordinance, how much time if there had been, if it had been operated at the time the ordinance went into effect, how much time would they have before they would lose their grand-father privilege?

Mr. Belden - 12 months.

Mr. Cooper - One year. However, there is a provision in the new zoning ordinance that was put in. If you're looking at page 45, it...

Mr. Cooper - Number two.

Mr. Belden - Yes, A2. It, I guess...

Mr. Cooper - So...

Mr. Belden - ...exempts, exempts lawfully existing gas station, automobile sales and automotive service uses located in the district that we're talking about right now.

Mr. Cooper - So what the Town Board did when they put in 2, which is what I was referring to as perhaps inuring to your benefit is they said we're going to have a Core Commercial district, but as to service stations, you never get, you never lose your grand-father. That's the way I read it.

Mr. Belden - Correct.

Mr. Cooper - And they did the same thing with residences. For instances, it was brought up at the committee meetings that I was privy to that if somebody had a residence here on Main Street in a Core Commercial district which is not zoned for residential use. They died and that house stood vacant for a year and a half in probate or something, it wouldn't be fair to ban residential use of that property. So residences are perpetual grand-fathering too. You with me so far? In order to

slip into that exception, the property has to have been lawfully used for that purpose at the time the ordinance went into effect. Our problem here seems to be it wasn't. It was vacant at that point in time. It was legal right up to the last minute the Town Board raised its hand and said are we going to approve the new ordinance. From that point forward, there was nobody in there. It wasn't that you ran out of grace period one year after that event. You follow my logic. I'm not saying you have to agree with me, but that's the...

Mr. David Mineo - I follow the logic.

Mr. Cooper - Okay. However, ya know, I suppose... I don't want to speak for the other people who or the Town Board members when they enacted this thing. I think they probably had in mind to grand-father the gas stations and service stations that were there and probably nobody thought about the corner garage and what the consequences would be when they did this. I'll concede that. But I also have an obligation to enforce the law, okay. And as I said, I'm just one of five, five board members here. But that's, I think that gives you some hope anyway that if the board decides that this particular property, because of its long history of being treated as a service station should be, qualify under this section A2 of Article 8, then, then you're in good shape as far as that's concerned, that particular legal issue is concerned. Okay? Alright, anybody want to be heard on that point?

Mr. Hall - May I ask a question? The license that was issued by the State for repairs, does that fall within the period and are we just totally disregarding any license that the State issues?

Mr. Belden - The, well, a few things... Are you asking me? I guess, I guess for one, the document itself actually says, "this document does not certify that this business complies with zoning and other local laws". It's something that's on, on that certificate there. The other thing being is that ordinance talks about lawfully existing, so I mean, this wasn't lawfully existing. It was, it used to be (inaudible).

Mr. David Mineo - I'd like to make a comment to that. I do have a letter from Chris that said (inaudible) that it is indeed a lawful...

Mr. Cooper - It was, no question. Nobody's arguing that.

Mr. David Mineo - So even though this says, "this document does not certify that this business complied with zoning and other local laws," it did at that time.

Mr. Cooper - Yeah, what Mr. Belden's point is that three or four short months later, they passed a new ordinance and a new clock starting to run against you. And...

Mr. Hall - If you were doing repair work on, they were doing repair work on their own vehicles, that does not qualify that (inaudible) state license?

Mr. Belden - No, I wouldn't deem it that way.

Mr. Hall - Okay. Well, what happens if somebody in a residential district like Ashe Drive or Orton Drive starts doing repair work under a State license in their own driveway?

Mr. Belden - I'm sure Mr. Mineo could attest to I believe you, you need to get, you at least asked for a letter from me to, in order for you to apply for that certificate, correct?

Mr. David Mineo - I did.

Mr. Belden - So I would think...

Mr. David Mineo - I didn't necessarily need that but...

Mr. Belden - You didn't really need, okay.

Mr. David Mineo - I don't... Ya know, I shouldn't say that. (Tape inaudible).

Mr. David Mineo - ...I absolutely needed that, but that was (inaudible).

Mr. Belden - I mean, if somebody, ya know, if somebody has a garage and they have their buddies come over and do some things, that's one thing...

Mr. Hall - I was thinking of something like one of these Chip factories or the sawmill or something, if they had (inaudible) started doing repair work on all of his vehicles, then on Third Street there, Thompson Street, that's a residence and...

Mr. Belden - Well, like I said, if, I mean if it was, and I think in their case too it was, ya know, somebody was working on their own personal vehicles or maybe some friends' vehicles, I think that's a different type of use happening on the property versus if there's state licensed operation and...

Mr. Hall - Yeah, you're saying personal vehicles, but I've got a little problem with the sign on the side of the vehicle says Warrensburg Laundromat being worked on in there, so they're working on a commercial vehicle, so.

Mr. Cooper - Okay, can we move along now?

Mr. Morey - I have one question. You stated earlier that (inaudible) if a person had a residence and they died and then it was in probate for a year, year and a half, that it would still continue to be a residence.

Mr. Cooper - Right.

Mr. Morey - It wasn't being used as a residence while they were dead.

Mr. Cooper - No, no. There's a specific exemption that says that that, that you don't have to prove use.

Mr. Morey - Don't have to prove use.

Mr. Cooper - Just that it was a residence and continues to be a residence.

Mr. Belden - It's actually in a different section on that page. The one for service stations is under section subdivision...

Mr. Cooper - B3.

Mr. Belden - Yeah.

Mr. David Mineo - Does that apply to the service station too (inaudible)?

Mr. Morey - I mean, it's a service station. It looks like a service station (inaudible). How would you determine..? It doesn't say you had to be running it. It just says it has to be... A gas station is obviously a gas station (inaudible).

Mr. Cooper - Well, all other questions with regard to non-conforming uses or grand-fathering require activity; not just sitting there. So I was involved in litigation up in North Creek that went to the Appellate Court in Albany dealing with a batch plant they had up there. They had, still had their sand tower up, they still had a conveyor belt with a hopper to load gravel. All of the external accoutrements were there, even the water supply, but they didn't make any concrete there (inaudible) four/five years. So when they went to start the thing up again, the neighbors who had enjoyed peace and quiet and not having dust on their cars (inaudible) concrete, objected and the Town denied them a permit to resume operation. So I'll give you that by way of example. There has to be use. They brought up the fact that there had been some phone calls made from the property, they had to some evidence of that maybe a load of gravel had been delivered there within the period of time and the Court said those things were insubstantial and not the type of use that would be consistent with the commercial operation with it ongoing. So that would be my answer to your question, Mr. Morey. Again, you don't have to agree with me, but that's the way I feel anyway. With regard to the residence, let's just say the fact that it was a residence means that it stayed a residence, even though nobody was occupying it. They didn't choose to say that (inaudible). So... Maybe things are looking pretty good for you.

(Laughter).

Mr. Cooper - So we'll, unless anybody has any other comments to make, we'll go to the criteria of a use variance. And (inaudible) makes a liar out of me here. Our ordinance says one of the criteria is under the applicable zoning regulations, the applicant cannot realize a reasonable return provided the lack of return is substantial as demonstrated by competent evidence. So I was wrong before. That is a relevant consideration and your answer to that is, "first floor has been used as an automobile repair shop for over 60 years. The first floor has been vacant since its last use as an automobile repair shop. The only inquiries Origin Enterprise received for the first

floor had been as an automobile repair or automobile dealership. The design of the first floor is perfect for either use. Signs have been placed in the windows for over a year and ads placed on Craigslist and in the Post Star for rent. The applicant," in this case you've named yourself, is losing substantially yearly which cannot be sustained". Is that... Are you balancing in the rentals on the property as well?

Mr. David Mineo - Yes.

Mr. Cooper - In your balance sheet?

Mr. David Mineo - Yes.

Mr. Cooper - So you're losing money even after you count your rents?

Mr. David Mineo - Correct.

Mr. Cooper - Pay your taxes, pay your water bills and so forth.

Mr. David Mineo - (Inaudible).

Mr. Cooper - Number two, the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood. It says, "the first floor of the building is designed as an automobile dealership sales and repair shop. This has been in use for over half a century. Other properties in the neighborhood do not lend themselves to this use. The very interior design" native..

Mr. David Mineo - Design Nature.

Mr. Cooper - ..."design nature and interior construction make it ideal for these uses. The first floor is garage with a small office" so forth. We've covered that. Is the, does it have a hydraulic lift in it or is there a pit?

Mr. David Mineo - No, it has neither right now (inaudible).

Mr. Cooper - Well, I suppose it would be possible for some little coffee shop or a hippy retail operation to, to go in that corner there and there's parking where we were talking about removing the snow and so forth. Can you think of any reason why such other type retail use wouldn't be realistic?

Mr. David Mineo - It would require a substantial amount of money, I'd think, to redesign the interior. (Inaudible).

...garage door (inaudible) plaster walls, ya know, ceilings that are probably (inaudible).

Mr. Cooper - Is all of the infrastructure or garage gone, like the lube pulleys and that type of thing where people would reach up and maybe get an air gun or something like that?

Mr. David Mineo - The air's still there. The air lines are there.

Mr. Cooper - What's overhead, anything to service vehicles overhead?

Mr. David Mineo - The air line may come in overhead from one side to the other, electrical outlets, air line outside.

Mr. Cooper - Anybody want to make any comments about this one, number two?

Mr. David Mineo - (Inaudible).

Mr. Cooper - Yeah. That's important when you have a lift. (Laughter).

Mr. Cooper - Three, the requested variance, if granted, will not alter the essential character of the neighborhood. I don't think we have to spend too much time on that because the neighborhood has been virtually identical. This structure itself, how old would you think it is, 150 years?

Mr. David Mineo - At least 160 years old.

Mr. Cooper - It's laid up by, with native stone.

Mr. David Mineo - Yes, it is. The ceilings are (inaudible) feet high.

Mr. Cooper - Yeah, and the first two stories are stone from the, from the area.

Mr. David Mineo - Hackensack Mountain.

Mr. Cooper - Mason. So it's been there... Virtually it was a post office at one time. Do you know of any other uses?

Mr. David Mineo - It was the Elks or the Masonic Lodge at one time.

Mr. Cooper - The ground floor?

Mr. David Mineo - Third floor.

Mr. Hall - (Inaudible) had a barber shop in the left-hand side of that (inaudible), but I'm not sure if that's what you're referring to as an office or not.

Mr. David Mineo - Yes. That would be the office side, yes.

Mrs. Winslow - There was a hairdresser in there too.

Mr. David Mineo - (Inaudible).

Mr. Cooper - Do you want to spell that, Mitch Abood; she's going to get it wrong in the minutes. Abood.

Mrs. Corlew - Yeah, 'cause I don't know that word.

Mr. Cooper - That was his last name. I think he was Syrian. A B O O D.

Mrs. Corlew - Okay.

Mrs. Winslow - (Inaudible) on Hudson Street, just passed your office.

Mr. Cooper - Yeah, he did. Number four, the alleged hardship has not been self-created. When you bought the property, you had no idea the zoning was going to be changed, correct?

Mr. David Mineo - Correct.

Mr. Cooper - It was a functioning garage at that time?

Mr. David Mineo - Yes.

Mr. Cooper - And as far you know, the functioning garage at that time and earlier antedated the 1988 zoning ordinance. Is that correct?

Mr. David Mineo - (Inaudible).

Mr. Cooper - Okay. Any members of the board have any questions for Mr. Mineo or Mr. Belden? Do you folks want to make any comments, I mean, add anything factually here tonight?

Mr. David Mineo - Would you like to have the prospective tenants to comment on (inaudible)?

Mr. Cooper - That's what I meant. I didn't...
(Tape inaudible).

Mr. Kennedy - I wasn't sure.

Mr. Cooper - Raise your hand please. What's your name?

Mr. Kennedy - Dean Kennedy. My wife's Debra Kennedy.

Mr. Cooper - Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Kennedy - Yes, I do.

Mr. Cooper - Alright. Dean, what you got to say? You've heard the criteria. You've heard the stuff we've been kicking around. It really doesn't matter what your, what your plans are, but it would probably help if you said you were going to make sure that the snow is going to be handled responsibly.

Mr. Kennedy - Well (inaudible) hear you say that, because where our current lot is (inaudible) is similar, old type of gas station that's on a corner and there's no place to put the snow (inaudible) take it away. (Inaudible). That would definitely be in our plan. We were smiling when you said that (inaudible). And our other plan is just to have a minimal amount of cars, six or seven cars on that lot, nicely displayed (inaudible) access (inaudible) get in and out safely (inaudible).

Mr. David Mineo - Not on the sidewalk.

Mr. Kennedy - Not on the sidewalk. Oh no, no, no, not on the sidewalk. (Inaudible).

Mr. Cooper - Have you considered the tenants park there now?

Mr. David Mineo - They do now. In the lease, they're not supposed to park there, but we allow them at this point.

Mr. Cooper - Where do they park when the lot's being utilized.

Mr. David Mineo - They've always parked on the street.

Mr. Cooper - On Main Street?

Mr. David Mineo - Always.

Mr. Cooper - Jack Toney ever let 'em park over there on the edge of his yard?

Mr. Chuck Mineo - I don't know.

Mr. David Mineo - I know...

Mr. Cooper - He probably lets his cousin...

Mr. David Mineo - I know his cousin does.

Mr. Cooper - Alright. It's been a long time since we handled a use variance. I mean, a really long time, so I don't remember, do we go through SEQRA before we move the primary application? Seems to be that it would be pretty necessary, wouldn't it?

Mr. Belden - And due to the reason that the property's located, both of these properties are located in the historic district, well, it's considered to be an unlisted action, but because it's in the historic district, it requires a long form.

Mr. Cooper - Have they filled out the long form?

Mr. Belden - Yes.

Mrs. Corlew - You should have it.

Mr. Cooper - I do, but I didn't know it was the long form.

Mrs. Corlew - Yeah, I'm sorry.

Mr. David Mineo - It's long.

(Laughter).

Mrs. Corlew - It is; it is long.

Mr. Cooper - Alright, then we'll go through, go to Part II, the project impacts and their magnitude. Page 11 of 21.

Mr. Hall - (Inaudible).

Mr. Cooper - Will the proposed action result in a physical change to the project site? Looks to me like no because all of the changes would be interior. Any other board members view that differently? You got four heads going side to side. And they give us examples down here, but I, I think as I review all the examples, we come to the same conclusion. Let's go to the next one. 2. Will there be an effect on any unique or unusual land forms found on the site. I will answer that no. If anybody disagrees, speak now. Will proposed action affect any water body designated as protected? Again, I'll answer no. Anybody have any differing opinions or questions in that regard? It not anywhere nears any water bodies or riparian streams or anything like that. Will the proposed action affect any... And I should say it's serviced by storm water drains for the municipality as well. Will the action affect any non-protected existing or new body of water? No. Any disagreement? Will the proposed action affect surface or ground water quality or quantity? No. Any disagreements?

(Tape inaudible).

Mr. Cooper - Well, it's got, there are catch basins there for the town to, it will end up in the Schroon River for sure, but so does all the other runoff, water (inaudible). Got to make sure you don't any drippy oil off those cars, okay. 6. Will the proposed action alter drainage flow or patterns of surface water? No. Any differing of opinions? Will the proposed action affect air quality? No. Any differing opinions? Will the proposed action affect any threatened or endangered species? I don't think we have any threatened or endangered species, other than the, the plants that grow up in the ice meadows up at the, by the Hudson River. Will the proposed action substantially affect non-threatened or non-endangered species? I don't think there's any wildlife at all in that corner. I'm

going to answer that no unless somebody else disagrees. Will proposed action affect agricultural land resources. No agricultural land in that vicinity. Will the proposed action affect aesthetic resources? Visually EAF addendum? Actually I think if the, if this business failed and somebody bought it and razed the structure because they thought they could make more money with a franchise, it would be a real travesty to the community because of the historic..

Mr. Hall - Couldn't do it anymore, 'cause one you knock a building down, you can't meet the setbacks.

Mr. Belden - Zero.

Mrs. Corlew - Zero setback now.

Mr. Belden - There's zero setback on the lot property lines. (Inaudible).

Mr. Cooper - Anybody disagree with a no for that one? Will the proposed action impact any site or structure of historical or prehistoric? I'm going to answer that one no. It's more of a nature of a preservation more than an impact. Will the proposed action affect the quality or quantity of existing or future open spaces for recreational opportunities. That's not relevant. I'm going to answer that one no. Any disagreement? Will the proposed action impact the exceptional or unique characteristics of critical environmental area? As I indicated, I don't think we have one unless it's the Hudson River ice meadows. Will there be an effect to existing transportation systems? Anybody got any comments about that? I think that existing transportation systems function quite well while it was operated as a garage. Once in awhile you'd see somebody kind of stick their nose in that lot with the hind-end stuck out on Hudson Street when the light changed, and it was a little dicey, but unless the other oncoming traffic were drunk or something, they wouldn't hit him. They'd just have to wait. So I'm going to answer that one no. Will the proposed action affect the community's sources of fuel or energy supply? No. Any other opinions? Will there be any objectionable odors, noise or vibration as a result of the proposed action? Mr... Is it Dean? First name or last name?

Mr. Kennedy - First name is Dean; last name is Kennedy.

Mr. Cooper - Okay, Mr. Kennedy, when are you going to close up shop at night? I'm thinking about the tenants upstairs and hearing car doors open and shut and hoods open and shut and trunks open and shut. What are you going to do about that?

Mr. Kennedy - (Inaudible) we haven't discussed (inaudible). Our current business is open from 9 to 7 Monday through Thursday and 9 to 5 on Friday and 9 to 3 on Saturday. (Inaudible) any longer than that. We would not be open later than 7 at night.

Mr. Cooper - Okay. Well, we may make a condition if we approve this that you, you do not operate commercially after 7 o'clock in the evening. You're alright with that?

Mr. Kennedy - Yes.

Mr. Cooper - Any other comments with regard to 17? I'm going to answer that one no. Will the proposed action affect public health and safety? I would answer that no. Any comments or disagreements? Will the proposed action affect the character of the existing community? I think we can answer that no because really nothing has changed from what has been (inaudible) 50 to 70 years. Is there likely to be any public controversy related to potential adverse environmental effects? Mr. Belden, did anybody comment about this other than Mr. Wulfken and the, for the other lot?

Mr. Belden - We received no, no verbal or written comments on this, whether good or bad.

Mr. Cooper - We'll note that it's just the applicant and the proposed tenant who are here on behalf of the application tonight, no other members of the audience. So we'll answer that one no. Okay? Alright, so first I'm going to make the motion that we declare ourselves to be the lead agency in this environmental quality review assessment. Is there a second to the motion?

Mr. Hall - I'll second.

Mr. Cooper - Mr. Hall seconds. Discussion? That means that we're the most appropriate body to answer these questions as opposed to the Planning Board or the Adirondack Park Agency or any other municipal entity. So I would propose that we answer the question on 1 of 21, question being upon review of the information recorded in this environmental assessment form and any other supporting information and considering both the magnitude and the importance of each impact, it is reasonably determined by the lead agency that I would propose that we answer it a) the project will not result in any large or important impacts and therefore is one which not have a significant impact on the environment; therefore a negative declaration will be prepared. Is there a second to that motion?

Mrs. Winslow - Second.

Mr. Cooper - Mrs. Winslow seconds. Discussion? All those in favor, indicate by saying aye.

Mr. Moffitt - Aye.

Mr. Morey - Aye.

Mrs. Winslow - Aye.

Mr. Hall - Aye.

Mr. Cooper - Let the record reflect that the board is unanimous is selecting box A of section 617.20 Appendix A of the SEQRA form.

RESOLUTION #2013-9

Motion by: James Cooper
 Second by: Donne Lynn Winslow

RESOLVED, that application ZBA #2013-3 by Origin Enterprises, LLC, for tax map #211.9-4-11, located at 3873 Main Street, for a use variance, will not result in any large or important impacts and therefore is one which will not have a significant impact on the environment; therefore a negative declaration will be prepared.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt
 Nays: None

Mr. Cooper - Perhaps we should have done this in a different order, but I'm going to also make a motion that we determine this is a Type I unlisted action. And is there a second to that motion?

Mr. Morey - I'll second.

Mr. Cooper - Mr. Morey seconds. Discussion? All those in favor, indicate by saying aye.

Mr. Moffitt - Aye.

Mr. Morey - Aye.

Mrs. Winslow - Aye.

Mr. Hall - Aye.

RESOLUTION #2013-10

Motion by: James Cooper
 Second by: Mark Morey

RESOLVED, to deem application ZBA #2013-3 by Origin Enterprises, LLC, for tax map #211.9-4-11, located at 3873 Main Street, for a use variance as a Type I unlisted action under the State Environmental Quality Review.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt
 Nays: None

Mr. Cooper - Alright. As is the custom of the board, at this time, I'm going to move the application ZBA 2013-3 in the affirmative. Is there a second to the motion?

Mr. Hall - Second.

Mr. Cooper - Mr. Hall seconds. Is there a discussion? Mrs. Winslow?

Mrs. Winslow - No.

Mr. Cooper - Nothing? Mr. Morey?

Mr. Morey - No.

Mr. Cooper - Mr. Hall? Alright, at this time, I'll call for a vote. A vote in the affirmative will be a vote to grant a use variance for operation of the what's formerly called the Corner Garage, what we've been calling that here as a garage repair facility and I believe as part of your application as a automobile sales lot. Is that right?

Mr. David Mineo - Yes.

Mr. Cooper - Okay. Mrs. Winslow?

Mrs. Winslow - No.

Mr. Cooper - Mr. Hall?

Mr. Hall - Yes.

Mr. Cooper - Mr. Morey?

Mr. Morey - Yes.

Mr. Cooper - Mr. Moffitt?

Mr. Moffitt - Yes.

Mr. Cooper - I vote no. Motion carries.

RESOLUTION #2013-11

Motion by: James Cooper

Second by: Alan Hall

RESOLVED, to approve application ZBA #2013-3 by Origin Enterprises, LLC, for tax map #211.9-4-11, located at 3873 Main Street, for a use variance to allow the use of an automobile repair shop and used car dealership.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Alan Hall, Mark Morey, Harold Moffitt

Nays: Donne Lynn Winslow, James Cooper

Mr. Cooper - So now we'll move to the second application, ZAB 2013-4. This relates to the, the lot which is at the southeast intersection of First Avenue and Main Street. Those of you who have been in the community for a long time will remember there was a Western Auto store there originally and it was burned down and then it went through several iterations as a vacant lot.

The petition alleges that there were automobiles displayed there for sale, used cars and it's been vacant for some years now with no structures on it since the fire that I'm aware of. Mr. Belden, will you explain how this comes before us, what our, how it happened, we happened to have jurisdiction of this issue.

Mr. Belden - Sure. Similarly to the previous application, the Mineo's are looking to use this lot in conjunction with the 3873 Main Street property, used explicitly as a displayed lot for the, for the automobile sales business. It's in the same zoning district, the Core Commercial district and in that district, automobile sales and service uses are not permitted.

Mr. Cooper - And they were permitted under the prior ordinance in that district?

Mr. Belden - That's correct.

Mr. Cooper - And so up until May of 2012, that would have been lawfully used as a automobile display lot?

Mr. Belden - Correct.

Mr. Cooper - Subsequent to the May 2012, one year thereafter, May 2013, the applicant lost his ability to use the property as of right for the purpose. Is that correct?

Mr. Belden - I would actually contend that I, I'm not under... I'm not, I don't have the understanding that it was used automobile sales lot prior to May (inaudible), but I guess I don't know the last time that it was used as...

Mr. Cooper - Okay. Well, that's part of the factual stuff we'll bring out here. Mr. Mineo, which one is going to speak this one? David? What do you know about the history of this lot?

Mr. David Mineo - (Inaudible) brief overview (inaudible) basically it was used by Duffy's Cars for an automotive display lot.

Mr. Cooper - Could you be more specific with regard to dates, even if it's just about?

Mr. David Mineo - I would say from the late 80's until maybe mid 90's (inaudible) mid 90's, late 90's (inaudible). When CDS Motor Group was selling used cars out of 3873 Main Street (inaudible). They also used that as a display lot, 3909, that lot (inaudible).

Mr. Cooper - When did you acquire this parcel?

Mr. David Mineo - I would say mid 90's, early to mid 90's.

Mr. Cooper - Are you the ones who built the, the timbers on the front, landscaped a little bit with the, the junipers that fell down over the timbers?

Mr. David Mineo - That, that was, that was done while we were owners but actually CDS Motor Group actually did that.

Mr. Cooper - Oh, okay. Well because I'm getting old and am forgetful. I didn't bring up the business about conditioning the use variance with regard to limiting the business operation

until 7:00 in the evening. Does the Board want to correct that mistake by opening up that issue and discussing whether we should impose that condition on the first application? Mr. Moffitt, what do you think about that?

Mr. Moffitt - Sure. We're going to do it one time or the other, right?

Mr. David Mineo - Can we go back now if it's already been approved?

Mr. Moffitt - (Inaudible).

Mr. Cooper - Yeah, we can correct our mistakes, our oversight. You can't really claim you've changed your position in the last four minutes to your detriment.

Mr. David Mineo - I was just skipping.

(Laughter).

Mr. David Mineo - So I don't want to stop skipping.

Mr. Cooper - You're going to skip out, hah? You should've bugged out when you had the chance.

(Laughter).

Mr. Cooper - Alright, I'm going to move that we open up the determination with regard to the Corner Car Care parcel for purposes of imposition of reasonable conditions. Is there a second to the motion?

Mr. Hall - I second it.

Mr. Cooper - Mr. Hall seconds. My idea would be that we impose a condition that the retail sales not continue beyond 7 p.m. at any given evening. That's the only condition I would impose. Any discussion about that? I see you kind of... When you disagree with me, Mr. Morey, you start jogging a little bit.

(Laughter).

Mr. Cooper - I see some of that out of the corner of my eye here. Why don't you speak your peace.

Mr. Morey - My only thought is that I don't think that we should condition what goes inside the building. (Inaudible) limit it to just outside because in the future if they decide to rent that to someone else that's actually repairing and doing work, they may want to work with the doors closed after, after 7 p.m.

Mr. Cooper - Well, that's a valid point, but if I was an upstairs tenant and somebody was using a grinder on a piece of steel, I think that would carry right up through the attic, so...

Mr. David Mineo - Honestly, it doesn't.

Mr. Cooper - No?

Mr. David Mineo - No, there's a (inaudible) between the third floor and the second floor (inaudible) hear anything that's going on in the garage.

Mr. Cooper - So are you suggesting that, as an amendment to my proposal of imposing the condition, that it apply only toward the exterior activities?

Mr. Morey - Yes.
 Mr. Cooper - Any second to Mr. Morey's suggestion?
 Mr. Hall - I'll second it (inaudible).
 Mr. Cooper - Mr. Hall seconds. Any other qualifications?
 Alright then first let's vote on Mr. Morey's amendment of my motion. All those in favor, indicate by saying aye.
 Mr. Morey - Aye.
 Mr. Moffitt - Aye.
 Mrs. Winslow - Aye.
 Mr. Hall - Aye.
 Mr. Cooper - Opposed? Part of the motion carries.

RESOLUTION #2013-12

Motion by: Mark Morey
 Second by: Alan Hall

RESOLVED, to amend the motion made by James Cooper to impose a condition on Resolution #2103-11 of no business being done after 7:00 p.m. at 3873 Main Street, owned by Origin Enterprises. The amendment being that no business be done outside after 7:00 p.m.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt
 Nays: None

Mr. Cooper - We'll go to the main part of the motion to impose a condition that there'll be no retail activities on the exterior of the premises after 7:00 p.m. any given evening. A vote aye will be a vote to impose the condition. A vote nay will be to not to. Mrs. Winslow?
 Mrs. Winslow - Aye.
 Mr. Cooper - Mr. Hall?
 Mr. Hall - Aye.
 Mr. Cooper - Mr. Morey?
 Mr. Morey - No.
 Mr. Cooper - Mr. Moffitt?
 Mr. Moffitt - Aye.
 Mr. Cooper - And I vote in the affirmative as well. So that condition is imposed.

RESOLUTION #2013-13

Motion by: James Cooper
 Second by: Alan Hall

RESOLVED, to condition Resolution #2013-11 for ZBA #2013-3 by Origin Enterprises, LLC, for tax map #211.9-4-11, located at 3873 Main Street, for a use variance to allow the use of an automobile repair shop and used car dealership. The condition being that there be no retail activities on the exterior of the premises after 7:00 p.m. any given evening.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt

Nays: None

Mr. Cooper - Dean, nobody's going to be standing there with a clock watch, stop watch or anything for you, but if you abuse this and we start to get neighbor complaints, then that's how it would come back to the attention to the board and more importantly the Code Enforcement Officer.

Mr. Kennedy - No problem.

Mr. Cooper - So if you get a customer that comes in there five minutes to 7 and he wants to look at one of your vehicles, I don't think anybody here really intends for you not to show it to him, but if you make a practice of abusing this and so forth, we didn't impose any conditions with regard to lights, banners, balloons, any of the weird stuff you see on car lots, so be grateful for the small stuff, okay? Alright. This brings us back to ZBA 2013-4. Where I was, Mr. Morey, you keep pretty close track of me.

Mr. Morey - We were just starting in on how the, what the uses of the lot had been.

Mr. Cooper - Okay. So we were, we had gone over the history of the lot?

Mr. Morey - Hm hm.

Mr. Cooper - And as it stands today, what is the, you've indicated in your petition but would you say for the record, Mr. Mineo, what the size of the lot is and it's roughly square or rectangular?

Mr. David Mineo - It is square. Pretty much square.

Mr. Charles Mineo - Relatively.

Mr. David Mineo - I think it's 75 by 75 (inaudible).

Mr. Cooper - Would you disagree with that the neighbor to the rear or away from Main Street is a residential use?

Mr. David Mineo - Would I disagree?

Mr. Cooper - Yes.

Mr. David Mineo - No.

Mr. Cooper - So there's a residence there and as you face the property from Main Street, on the left there's a residence, is that correct?

Mr. David Mineo - Correct.

Mr. Cooper - And across First Avenue, at least the upper story, there's an apartment there. Downstairs they're using for offices I guess.

Mr. David Mineo - (Inaudible).

Mr. Cooper - Okay. Well, let's go through the criteria unless somebody wants to interrupt me here and ask a question or make a point. The applicants says under paragraph one in regard to financial difficulty, it says, "the lot has been for sale for a least over a year. The only inquiries by potential renters are for an automobile display lot. 3909, LLC has lost money for the past couple of years since it lost its renter which used it as an automobile display lot. It cannot continue to sustain losses. 3909, LLC currently has a potential renter who would like to utilize this property as a display lot". Virtually you have income from this lot whatsoever, do you?

Mr. David Mineo - No. That's correct.

Mr. Cooper - It's just macadam right now.

Mr. David Mineo - That's correct.

Mr. Cooper - And do you recollect, off the top of your head, what you paid for property taxes being a Main Street/commercial location?

(Tape inaudible; people discussing amongst themselves).

Mr. Cooper - It's on page 1 of one of his exhibits here. There are a lot of page 1's.

Mr. David Mineo - I, I think it's...

Mr. Cooper - Two hundred forty five dollar...

Mr. David Mineo - That's water, I think.

Mr. Cooper - The taxes real estate \$220.95? Is that for combined school and town/county?

Mr. David Mineo - No. Where did you...?

Mr. Cooper - I mean, if you're going to use the lot for hopscotch, I mean most people could afford that.

Mr. David Mineo - No, if you look at, at the tax return showing a loss of over two thousand dollars, pretty much that's for taxes. There are really no other expenses.

Mr. Cooper - So you say the difference between the 245.95 which includes town and county and sewer and water and the 2,069, that's entirely school taxes?

Mr. David Mineo - (Inaudible) the 245.95 you were saying?

Mr. Cooper - Yeah.

Mr. David Mineo - That's just one month.

Mr. Cooper - Oh.

Mr. David Mineo - That's January. That, that would only include the County tax, I believe. Not the school tax. I, I included the, the more recent. I included the tax return for the previous year, which shows a loss of over two thousand dollars and then I included the monthly statement, which probably has clouded the issue. For this year...

Mr. Cooper - What are you paying a year school and town and county tax?

Mr. David Mineo - I don't have that in front of me for an exact figure, but I would say it's very close to being two thousand dollars. The only, the only figures in that would be water and sewer, which aren't actually connected, but there's a fee for, ya know, for going by.

Mr. Hall - In this district.

Mr. David Mineo - Being in the district, right. And, the rest would be county and school taxes.

Mr. Cooper - Okay. You want to talk anymore about your financial losses there or does that pretty much sum it up?

Mr. David Mineo - That pretty much sums it up. We, ya know, we've been going through that year after year, so...

Mr. Cooper - Okay. Item 2, the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood. You answer, "the property is an entirely vacant, open blacktop lot used for this purpose for the better part of at least the past 25 years, as it obviously is what is best sited for. The potential renters' intent is to use it for that use. The only inquiries 3909, LLC has had for a potential use of the property has been as an automobile display lot". Mr. Belden, could somebody in theory buy this lot and put a house on it?

Mr. Belden - Yes. A single family?

Mr. Cooper - Yeah.

Mr. Belden - Yes.

Mr. Hall - What are the setbacks on that corner lot? 30 foot from each property line, correct?

Mrs. Corlew - It's not 30 anymore.

Mr. Belden - Well, a few things. It's, the front setbacks... There's two fronts there with a zero front setback. Because it's a corner lot, it would need, any building construction would need to be 30 feet back from the intersecting lines of First and Main Street.

Mr. Cooper - That would be out in the center of Main Street and the center of First Street where they intersect?

Mr. Belden - Yeah, the, I guess where they intersect.

Mr. Cooper - Not the corner?

Mr. Belden - No, the... I believe...

Mr. Hall - I thought it was from the property line?

Mrs. Corlew - You're talking set...

Mr. Hall - (Inaudible).

Mrs. Corlew - Yeah. That's a different...

Mr. Belden - On a corner lot in any district, no fence, wall, hedge, sign or other structure or planting more than 3 feet in height shall be erected, placed, maintained within the circle area from 30 feet distance from the intersecting street line.

Mr. Cooper - From the corner of the streets. Where they, basically where the sidewalk...

Mr. Belden - From the very corner of that...

Mr. Cooper - So they couldn't put a residence there really, realistically. It would be...

Mr. Hall - House trailer.

Mr. Cooper - It would have to be a small little structure.

While you're looking for that, I'm going to note at this time that we received a comment from John Wulfken, received by Codes on August 8th and although it's hearsay for us to include this in the record, we can entertain hearsay for purposes of proceedings like this and the Board is entitled to put whatever or little weight it wants to based on the fact that Mr. Wulfken is not here to explain his positions on his own feet. But I'm going to move at this time we incorporate this in the record. Is there a second?

Mr. Moffitt - I'll second.

Mr. Cooper - Mr. Moffitt seconds. Discussion? Although in favor. Aye.

Mr. Hall - Aye.

Mr. Moffitt - Aye.

Mr. Morey - Aye.

Mrs. Winslow - Aye.

Mr. Cooper - Okay. Led the record reflect the Board is going to include Mr. Wulfken's letter in the record of these proceedings for this application.

RESOLUTION #2013-14

Motion by: Harold Moffitt

Second by: Alan Hall

RESOLVED, to incorporate into the record, John Wulfken's letter regarding application for a use variance by 3909, LLC.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt

Nays: None

Mr. Hall - Do they have a copy of this letter?

Mr. Cooper - They do.

Mr. Belden - Mr. Cooper?

Mr. Cooper - Yes.

Mr. Belden - I guess back to your question about whether or not the feasibility of a structure on the property, setbacks for that district would be front 0, rear 10 and 0 side and then like I said before, it's intersecting street line. I believe there's a sidewalk there, so it doesn't say from the corner of the property.

Mr. Cooper - What was the 30 foot setback?

Mrs. Corlew - Because they're on a corner.

Mr. Belden - The 30 foot setback if you have any structure over three feet in height. If it's, yeah, if it's on a corner.

Mrs. Corlew - It's separate from the setbacks in the zone.

Mr. Belden - A circle area formed from Main Street.

Mr. Cooper - But they're not... The 30 foot setback doesn't relate to the walls of the residence? It only relates to fences?

Mr. Belden - It would. Well no, it would, any structure, sign, fence.

Mr. Cooper - Or building.

Mr. Belden - Building, yeah.

Mr. Cooper - So you'd have to be 30 feet away from the intersection of those two streets before you set your corner posts down there, right?

Mr. Belden - Right. I know he... I think you had said, 75 by 75 roughly?

Mr. David Mineo - I put it in here somewhere and I don't...

Mr. Cooper - Patti disagrees with you.

Mr. Corlew - No, I didn't say anything.

(Laughter).

Mr. Cooper - I read body language. (Inaudible) hear what I said earlier about Mr. Morey?

(Laughter)

Mr. Belden - I guess my point being that 30 feet from those two intersecting street lines wouldn't, I guess you would take into account a sidewalk. It's not going to... It wouldn't be...

Mr. Cooper - It would be a pretty small house, wouldn't it? 75 by 75 foot lot? If you took into account maybe someplace to park a car, exterior, maybe a Bilco door coming up from the

basement would take up space. So eventually you're going to end up with a pretty small lot.

Mr. Belden - What's an average house, 40 by...?

Mr. Cooper - Ask a carpenter, I don't know. Okay.

Mr. Hall - I have a question too on Mr. Wulkfen, and it's foggy in the memory. Didn't he have, come up before us with a problem with his parking and so on because the residence behind it is actually a double, he made it into a double residence and then found out oops and we wound up having to give him a variance for a second apartment back there.

Mr. Belden - Yeah. I mean, I don't, I was...

Mr. Hall - The name and the address ring a bell, but it's so foggy that...

Mr. Cooper - I think that was over on his residence over on Second Avenue.

Mr. Belden - But he has an apartment...

Mr. Hall - That was his porch.

Mr. Belden - (Inaudible) on the, anything above the first floor and he may have... Did he have an apartment on the ground floor of that garage?

(Tape inaudible).

Mr. Cooper - Well, if we gave it to him, then he's lawfully doing it, so ya know, just because somebody comes in here to apply doesn't mean that they're foreclosed from complaining about somebody else's (inaudible).

Mr. Hall - That's true. I was wondering if we put any conditions when we granted him to variance.

Mr. Cooper - Let's drag him back in here and lay some conditions on him.

Mr. Hall - No, but I just wanted to know what we did. I can't remember.

Mr. Cooper - Alright. Other than the fact it's been blacktopped and actually there's concrete footings under the blacktop, I remember for years there were huge blocks of concrete there before it was blacktopped. I don't know how big they are, but if a structure were to, was to go in there, I think the point that, at least some of the board members are convinced is that it wouldn't be suitable for a residence number one because it's a commercial district and across the street you have a liquor store, insurance agency. I don't know if they're still in business or not, chainsaw repair shop. So whether it would be merchantable for residential use is impacted by those factors and also the fact that it would be a pretty small structure in my opinion before they could comply with all the laws and ordinances. So I'm assuming that it probably has to be a commercial structure there and there's been no... You've had for sale signs on, up on it for how many years?

Mr. David Mineo - Probably (inaudible).

Mr. Cooper - And it's generated no interest other than as a display lot?

Mr. David Mineo - Correct.

Mrs. Winslow - Did you have a plan for it when you bought it?

Mr. David Mineo - Pardon?

Mrs. Winslow - Did you have a plan for that lot when you bought it?

Mr. David Mineo - We thought someday we might do something commercial there, but (inaudible) specifically.

Mr. Cooper - The requested variance, if granted, will not alter the essential character of the neighborhood. Here again, I think we'll probably consider imposing a condition that you not operate this for retail purposes after 7 p.m. in the evening for the same reasons; doors opening and closing, hood, trunk and residential neighbors. Okay. Other than that, I don't think that the actual array of automobiles there is going to aesthetically destroy the character of the neighborhood. There, it's largely screened off with plantings, I think, with regard to the rear structure and the side structure on Main Street.

Anybody else have any comments about the aesthetics there?

Mr. Charles Mineo - I do.

Mr. Cooper - Yes, Mr... Your first name again?

Mr. Charles Mineo - Charles Mineo.

Mr. Cooper - Mr. Charles Mineo. What is your comments, Mr. Mineo.

Mr. Charles Mineo - Well, we're currently allowing people to park there (inaudible) so cars are on that lot. We're letting, I'm not sure what's on the corner (inaudible), Headstart.

Mr. Hall - Yeah, Headstart.

Mr. Belden - Headstart.

Mr. Charles Mineo - Headstart, we allow them to park their cars there. We don't block it off so no one has access to it. We're allowing them to basically park there.

Mr. Cooper - The alleged hardship has not been self-created. And Mrs. Winslow brought this up. Ya know, what did you have in mind when you bought the property (inaudible) and see that maybe you bought a white elephant. What do you got to say about that?

Mr. David Mineo - No, at the time we bought it, I don't think there was any zoning in town at the time, so setbacks weren't an issue.

Mr. Cooper - When did you buy it? Before 1988?

Mrs. Mineo - (Inaudible).

Mr. David Mineo - It may have been the early.

(Tape inaudible).

Mr. David Mineo - ...zoning whatsoever at the time.

Mr. Cooper - Well, you got to read the paper more. Ya know, you get yourself in trouble...

Mr. David Mineo - I can see that.

Mr. Cooper - Okay. Any questions for the applicants with regard to this application before we move into a SEQRA review? Mr. Kennedy, did you want to make any comments?

Mrs. Kennedy - I'd like to.

Mr. Cooper - Raise your hand please. Your name?

Mrs. Kennedy - Debra Kennedy.

Mr. Cooper - You swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mrs. Kennedy - Yes, I do.

Mr. Cooper - Okay. Go ahead, Debra.

Mrs. Kennedy - First of all, I think you have the misconception of what our car lot would be. We're not into the gimmicks and the (inaudible) and all the banners and all that and I think some of the pictures from our current lot have been included. Unless you have an objection to the American flag, that's the only thing (inaudible) on our part. We don't get into all that and (inaudible). I'm a very visual person. This car lot's not going to be a typical car lot. You're going to see flowers, improvements to the structure and you're not going to see a bunch of junk cars. We do not sell junk. So I can see that you might be concerned about something like that (inaudible).

That's not how we operate now. That's not our intent. And as far as repairs, unless I find someone who is a local person who (inaudible) in, in repairing, the only thing that will be happening in that garage will be me detailing the cars. You will not see Dean here (inaudible).

Mr. Cooper - Okay. Thank you. Alright, I'm going to move at this time that the board find that this is a Type I unlisted action under the State Environmental Quality Review Act. Is there a second?

Mr. Morey - Second.

Mr. Cooper - Mr. Morey second. Discussion? All those in favor, indicate by saying aye.

Mr. Morey - Aye.

Mr. Hall - Aye.

Mrs. Winslow - Aye.

Mr. Moffitt - Aye.

RESOLUTION #2013-15

Motion by: James Cooper

Second by: Mark Morey

RESOLVED, to deem application ZBA #2013-43 by 3909, LLC, for tax map #211.9-4-1, located at 3909 Main Street, for a use variance, as a Type I unlisted action under the State Environmental Quality Review.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt

Nays: None

Mr. Cooper - Okay. I'm going to move at this time that the Zoning Board of Appeals declare itself to be the lead agency for purposes of environmental assessment under the State Environmental Quality Review Act. Second to the motion?

Mr. Moffitt - I'll second.

Mr. Cooper - Mr. Moffitt seconds. All those I in favor, indicate by saying aye.

Mr. Moffitt - Aye.

Mr. Morey - Aye.

Mrs. Winslow - Aye.

Mr. Hall - Aye.

RESOLUTION #2013-16

Motion by: James Cooper

Second by: Harold Moffitt

RESOLVED, to declare itself to be the lead agency for purposes of environmental assessment under the State Environmental Quality Review Act for ZBA #2013-43 by 3909, LLC, for tax map #211.9-4-1 for a use variance.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt

Nays: None

Mr. Cooper - Alright. Let's proceed through review of this proceed. Page 11 of 21, page 2. Will the proposed action result in a physical change to the project site? I think we can answer that no because nobody's indicated, other the flowers, there's not going to be any changes in the macadam or anything. So any disagreement with that? Okay. Will there be an effect on any unique or unusual land forms found on the site? There are no unique or unusual land forms, so we'll check that one no.

Will the proposed action affect any water body designated as protected under Articles 15, 24 & 25 of the ECL? There are no water bodies there. Check that one no. Speak out if you disagree with any of my observations or conclusions here. 4, will the proposed action affect any non-protected existing or new body of water? No. Will the proposed action affect surface or ground water quality or quantity? I suppose there's a potential for some runoff but, it'll be captured in the catch basins of this Town's municipal storm water sewer system, so I'm going to check that one no. 6, will the proposed action alter drainage flow or patterns of poor surface water? The water's been running off that blacktop now for 15 or 25 years, so check that one no. Will the proposed action affect air quality? No. Will the proposed action affect any threatened or endangered species? No. Will the proposed action substantially affect non-threatened or non-endangered species? No. Will the proposed action affect agricultural land resources? No. Will the proposed action affect aesthetic resources? I don't think there are any aesthetic resources in that district, so we'll check that one no. Will the proposed action impact any site or structure of historic, prehistoric or paleontological importance? No. Will the proposed action affect the quality or quantity of existing or future open spaces or recreational opportunities? I don't know. Has anybody used that for handball or hopscotch or anything? If they are, they're trespassing, right? Check that one no. Will proposed action impact the exceptional or unique characteristics of a critical environmental area? There is none in that part of town. 15, will there be an effect to existing transportation systems? No. Will the proposed action affect community source of fuel or energy supply? Will there be objectionable odors, noise or vibration as a result of the proposed action? No. Will the proposed action affect the public health and safety? No. Will the proposed action affect the character of existing community? No. That's it. So we'll go back to the...

Mr. Belden - Number 20.

Mr. Cooper - Pardon me?

Mrs. Winslow - Number 20.

Mr. Belden - Number 20.

Mrs. Winslow - One more.

Mr. Cooper - One more?

Mrs. Winslow - 20.

Mr. Cooper - Oh. Is there likely to be any public controversy related to the potential adverse or environmental impacts. We have one letter. No member of the audience showing up proposing. So we'll check that no. We'll back to page 1 of 21. Upon review of the information recorded in this EAF, Parts 1 and

2 and 3 of appropriate and any other supporting information and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that the project will not result in any large or important impacts and therefore is one which will not have a significant on the environment; therefore a negative declaration will be prepared. I propose that the Board adopt that finding. Is there a second to the motion?

Mrs. Winslow - I'll second.

Mr. Cooper - Mrs. Winslow seconds. All those in favor, indicate by saying aye.

Mr. Morey - Aye.

Mr. Moffitt - Aye.

Mrs. Winslow - Aye.

Mr. Hall - Aye.

Mr. Cooper - Okay. Let the board, record reflect the Board is unanimous in finding Box A.

RESOLUTION #2013-17

Motion by: James Cooper

Second by: Donne Lynn Winslow

RESOLVED, that application ZBA #2013-4 by 3909, LLC, for tax map #211.9-4-1, located at 3909 Main Street, for a use variance will not result in any large or important impacts and therefore is one which will not have a significant impact on the environment; therefore a negative declaration will be prepared.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt

Nays: None

Mr. Cooper - So that brings us to the application for the use variance itself. This is ZBA 2013-4, relating to the vacant lot at the intersection of First Avenue or First Street... I never get that straight and I live right across from it. ...and Main Street. As is the custom of the Board, I'll move the application in the affirmative. Is there a second?

Mr. Morey - Second.

Mr. Cooper - Mr. Morey seconds. Discussion? Mr. Moffitt, anything?

Mr. Moffitt - No.

Mr. Cooper - Mr. Morey?

Mr. Morey - No.

Mr. Cooper - Mr. Hall?

Mr. Hall - No.

Mr. Cooper - Mrs. Winslow?

Mrs. Winslow - No.

Mr. Cooper - Okay. Then we'll move, proceed to a vote. A vote aye will be to approve the application for a use variance. Mr. Moffitt?

Mr. Moffitt - Aye.

Mr. Cooper - Mr. Morey?

Mr. Morey - Aye.

Mr. Cooper - Mr. Hall?

Mr. Hall - Aye.

Mr. Cooper - Mrs. Winslow?

Mrs. Winslow - No.

Mr. Cooper - And I vote no too. Motion carries. You have your use variance.

RESOLUTION #2013-18

Motion by: James Cooper

Second by: Mark Morey

RESOLVED, to approve application ZBA #2013-4 by 3909, LLC, for tax map #211.9-4-1, located at 3909 Main Street, for a use variance to allow the use of an automobile sales display lot.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Alan Hall, Mark Morey, Harold Moffitt

Nays: Donne Lynn Winslow, James Cooper

Mr. Cooper - Now, if you are required to get other municipal approval, you know you should have your warning antennae up and ask Mr. Belden is there's anybody else that has a finger in this pie and cross those T's and dot those I's too. Again, I seem to have forgotten. We have to condition this, at least in my judgment for operation prior to (after) 7 p.m. in the evening. Is there a motion to the effect?

Mr. Hall - I will motion.

Mr. Cooper - Mr. Hall motions that. I'll second. Discussion? How do you feel about that, Mr. Moffitt.

Mr. Moffitt - I think it's fine.

Mr. Cooper - Mr. Morey?

Mr. Morey - No objection.

Mr. Cooper - Mrs. Winslow?

Mrs. Winslow - I think it should go (inaudible) with the other.

Mr. Cooper - So a vote aye will be to vote to impose a condition on this variance that retail use of the property will not be conducted, active sales will not be conducted after 7 o'clock in the evening. All those in favor, indicate by saying aye.

Mr. Morey - Aye.

Mrs. Winslow - Aye.

Mr. Hall - Aye.

Mr. Moffitt - Aye.

Mr. Cooper - Let the record reflect that Board is unanimous in enacting that condition.

RESOLUTION #2013-19

Motion by: Alan Hall

Second by: James Cooper

RESOLVED, to condition Resolution #2013-18 for application ZBA #2013-4 by 3909, LLC, for tax map #211.9-4-1, located at 3909 Main Street, for a use variance to allow the use of an automobile sales display lot. The condition being that retail use of the property will not be conducted after 7:00 p.m.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn, Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt

Nays: None

Mr. Cooper - So you have your use variance.

Mr. David Mineo - Thank you.

Mr. Cooper - And I wish you luck. There have been other people who've been in the business that you're undertaking, maybe you're better at it than they are, but it's tough competing with the, the guys down in Glens Falls. Their market is basically people from the North Country who are passing through, and good luck and God bless because we certainly can use successful business here in town.

Mr. Kennedy - (Inaudible) Krystle and we spoke to him and (inaudible) providing (inaudible) financing (inaudible).

Mr. Cooper - Hm hm.

Mr. Kennedy - (Inaudible).

Mr. Cooper - Well, your wife's willing to spend her evenings in there detailing these cars.

Mr. Kennedy - She's going to operate the place and clean the cars herself and she does not want to be there 'til 7:00.

Mrs. Kennedy - Believe me, if I could've voted, I would've.
(Laughter)

Mrs. Kennedy - You could've said six.

(Laughter).

Mr. Cooper - Well, good luck and God bless.

Mr. David Mineo - Thank you very much.

Mr. Charles Mineo - Thank you.

(Tape inaudible; people leaving & talking at once).

Mr. Cooper - Anything else?

Mr. Belden - I just... Before, before you guys end up leaving, I did want to tell you that, now that you have the approvals to operate those, that business there; however, it would require site plan approval by the Planning Board. But yeah, I guess the Planning Board... I mean, you have, you have the, the right is permitted (inaudible) validation of the Zoning Board, so this is just a matter of a different site aspect and so on.

Mr. Kennedy - We have to do business with them and find out what your regulations are for signage and...

Mr. Belden - Sure.

Mrs. Corlew - Yeah. That's all they're looking at it.

Mr. Kennedy - (Inaudible) and sign an all that stuff.

(Tape inaudible).

Mr. Kennedy - So we'll be in touch.

Mr. Belden - Okay, great.

(Tape inaudible).

Mrs. Corlew - As far as the Town, except for your permit.

Mr. Belden - Yeah, and then the permit after they get the site plan approval.

(Tape inaudible).

Mr. Belden - Except from that, yeah, I think you're good to go.

Mr. Kennedy - Thank you very much.

Mr. Belden - Appreciate it. Thanks guys.

Mrs. Kennedy - Thank you.

Mrs. Corlew - Have a good night.

Mr. Cooper - Okay. So that's it as far as our business is concerned?

Mrs. Corlew - That's it.

Mr. Cooper - Do we have any applications that are going to be coming up next month?

Mrs. Corlew - Yes.

Mr. Belden - Yes. North Country Ministry is submitting an area variance...

(Tape inaudible).

Mr. Belden - North Country Ministries has submitted an area variance. They're putting an addition on the...

Mr. Cooper - Across from the post office?

Mrs. Corlew - Yes.

Mr. Belden - Yes. Putting an addition on the back portion, I don't know where exactly, but it's going to be a...

Mrs. Corlew - A pantry.

Mr. Belden - A pantry.

Mrs. Corlew - Food pantry.

Mr. Belden - And some other... They're just running out of space there, so it's going to be about six feet from the property line, so.

Mrs. Corlew - Yeah, they're lacking four feet, so.

Mr. Cooper - Well, we'll look forward to that and maybe we'd get better as we get more practice, huh?

Mrs. Winslow - Yeah. True.

(Tape inaudible).

Mr. Hall - Chris, my pet peeve, how are you coming?

Mrs. Corlew - Are we going to close this?

Mr. Cooper - I'm sorry. Yeah, I'll declare the meeting closed.

The Zoning Board meeting of August 8, 2013 was adjourned at 8:25 p.m.

Respectfully submitted

Patti Corlew
Recording Secretary

Zzb08082013

RESOLUTION #2013-9

Motion by: James Cooper
Second by: Donne Lynn Winslow

RESOLVED, that application ZBA #2013-3 by Origin Enterprises, LLC, for tax map #211.9-4-11, located at 3873 Main Street, for a use variance, will not result in any large or important impacts and therefore is one which will not have a significant impact on the environment; therefore a negative declaration will be prepared.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt
Nays: None

RESOLUTION #2013-10

Motion by: James Cooper
Second by: Mark Morey

RESOLVED, to deem application ZBA #2013-3 by Origin Enterprises, LLC, for tax map #211.9-4-11, located at 3873 Main Street, for a use variance as a Type I unlisted action under the State Environmental Quality Review.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt
Nays: None

RESOLUTION #2013-11

Motion by: James Cooper
 Second by: Alan Hall

RESOLVED, to approve application ZBA #2013-3 by Origin Enterprises, LLC, for tax map #211.9-4-11, located at 3873 Main Street, for a use variance to allow the use of an automobile repair shop and used car dealership.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Alan Hall, Mark Morey, Harold Moffitt
 Nays: Donne Lynn Winslow, James Cooper

RESOLUTION #2013-12

Motion by: Mark Morey
 Second by: Alan Hall

RESOLVED, to amend the motion made by James Cooper to impose a condition on Resolution #2103-11 of no business being done after 7:00 p.m. at 3873 Main Street, owned by Origin Enterprises. The amendment being that no business be done outside after 7:00 p.m.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt
 Nays: None

RESOLUTION #2013-13

Motion by: James Cooper
 Second by: Alan Hall

RESOLVED, to condition Resolution #2013-11 for ZBA #2013-3 by Origin Enterprises, LLC, for tax map #211.9-4-11, located at 3873 Main Street, for a use variance to allow the use of an automobile repair shop and used car dealership. The condition being that there be no retail activities on the exterior of the premises after 7:00 p.m. any given evening.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt
 Nays: None

RESOLUTION #2013-14

Motion by: Harold Moffitt
 Second by: Alan Hall

RESOLVED, to incorporate into the record, John Wulfken's letter regarding application for a use variance by 3909, LLC.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt
 Nays: None

RESOLUTION #2013-15

Motion by: James Cooper
 Second by: Mark Morey

RESOLVED, to deem application ZBA #2013-43 by 3909, LLC, for tax map #211.9-4-1, located at 3909 Main Street, for a use variance, as a Type I unlisted action under the State Environmental Quality Review.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt
 Nays: None

RESOLUTION #2013-16

Motion by: James Cooper
 Second by: Harold Moffitt

RESOLVED, to declare itself to be the lead agency for purposes of environmental assessment under the State Environmental Quality Review Act for ZBA #2013-43 by 3909, LLC, for tax map #211.9-4-1 for a use variance.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt
 Nays: None

RESOLUTION #2013-17

Motion by: James Cooper
 Second by: Donne Lynn Winslow

RESOLVED, that application ZBA #2013-4 by 3909, LLC, for tax map #211.9-4-1, located at 3909 Main Street, for a use variance will not result in any large or important impacts and therefore is one which will not have a significant impact on the environment; therefore a negative declaration will be prepared.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt
 Nays: None

RESOLUTION #2013-18

Motion by: James Cooper
 Second by: Mark Morey

RESOLVED, to approve application ZBA #2013-4 by 3909, LLC, for tax map #211.9-4-1, located at 3909 Main Street, for a use variance to allow the use of an automobile sales display lot.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Alan Hall, Mark Morey, Harold Moffitt
 Nays: Donne Lynn Winslow, James Cooper

RESOLUTION #2013-19

Motion by: Alan Hall
 Second by: James Cooper

RESOLVED, to condition Resolution #2013-18 for application ZBA #2013-4 by 3909, LLC, for tax map #211.9-4-1, located at 3909 Main Street, for a use variance to allow the use of an automobile sales display lot. The condition being that retail use of the property will not be conducted after 7:00 p.m.

DULY ADOPTED ON THIS 8TH DAY OF AUGUST, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn, Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt
 Nays: None