

Minutes
Warrensburg Zoning Board of Appeals
October 10, 2013

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

Others Present: Michael and Donna Flanagan, Attorney John Wright, Mark Levack, Chris Watson, Brian Braymer, Terry Meissner, Steve and Sandi Parisi, Irene Hall, Ilana Morgan, Bryan Rounds, Brian Lace, Patti Corlew

Meeting Commenced at 7:00 p.m.

Mr. Cooper - ...to order. The first item of business of the agenda is the roll call. Let the record reflect that all five board members are present and seated. The next item of business on the agenda is the approval of the previous meeting's minutes. Are there amendments or corrections? Mr. Moffitt?

Mr. Moffitt - No.

Mr. Cooper - Mr. Morey?

Mr. Morey - I don't have any.

Mr. Cooper - Mr. Hall?

Mr. Hall - No.

Mr. Cooper - Mrs. Winslow?

Mrs. Winslow - (Inaudible).

Mr. Cooper - On the first page, down, third line down, the word singular constitute. That's the only change I have. Any other changes or amendments? Let the record reflect that the minutes are approved by consensus of the board. We're going to invert the order of business here tonight because I have an apparent conflict of interest. I've been approached by Dr. and Mrs. Flanagan to represent them in the purchase of the former Merrill Magee property, so Mr. Morey's going to have to handle that part of the proceedings. And so we will take as our first item of business, ZBA 2013-6. Who's going to tell us how this came before us here, Patti?

Mrs. Corlew - I will.

Mr. Cooper - Alright. As is the custom of the Board, the Code Enforcement Office will explain how the matter came before us.

Mrs. Corlew - The Ulrich Sign Company proposed a 115 square foot sign. Our new zoning ordinance only allows up to 25 square feet. Therefore, they need a variance (inaudible).

Mr. Cooper - Actually, the applicant is Tops, isn't it and Ulrich Sign Company is their agent?

Mrs. Corlew - Yeah.

Mr. Cooper - Okay. Who's the representative for Ulrich Sign Company? Just step up to the microphone and state your name please?

Mr. Meissner - My name is Terry Meissner, I'm from Saxton Sign Corporation on behalf of Ulrich Sign Company.

Mr. Cooper - Raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. Meissner - Yes, I do.

Mr. Cooper - Alright. First explain how you happen to represent the Tops grocery store and whatever else you feel is germane on, in a preliminary sense?

Mr. Meissner - Well, we're installing the signs for Tops and we have Tops' representatives that are here with me today who would like to speak.

Mr. Cooper - Can I have your name again please?

Mr. Meissner - Terry Meissner.

Mr. Cooper - How do you spell it?

Mr. Meissner - M E I S S N E R.

Mr. Cooper - Go ahead.

Mr. Meissner - But they would like to put a 21 feet wide by 60 inch sign in the front of their building and it's 115 square feet. The sign that they had there before was 142 square feet. And..

Mr. Cooper - You say they had before. Who are you talking about?

Mr. Meissner - Grand Union. The one that Grand Union had there. And (inaudible) the size of the store and for the area, and, so you can read it from the road, 25 square feet is not really that much of a space to fill (inaudible).

Mr. Cooper - Have you done other Tops signs, Mr. Meissner?

Mr. Meissner - Yes, we have.

Mr. Cooper - How many have you done?

Mr. Meissner - Well, there's ten in the area that we're doing right now.

Mr. Cooper - Previously.

Mr. Meissner - Six of them, I think.

Mr. Cooper - Is this sign consistent with the signs that they use in other groceries stores in other municipalities?

Mr. Meissner - Yes, it is.

Mr. Cooper - So this, are all their signs roughly 115 square feet?

Mr. Meissner - Yes.

Mr. Cooper - Yes?

Mr. Meissner - Hm hm.

Mr. Cooper - And the signs you're installing in the other stores in the region, are they going to be 115 square feet?

Mr. Meissner - Yes, they are.

Mr. Cooper - Do you require an area variance for any of those?

Mr. Meissner - A few of 'em, yep.

Mr. Cooper - What towns did you get area variances in for those?

Mr. Meissner - Off the top of my head, I don't know. I didn't go to them. (Inaudible) Chris right here can answer your questions better than I can.

Mr. Cooper - Move forward please. State your name for the record?

Mr. Watson - I'm Chris Watson with Tops Markets.

Mr. Cooper - And what is your address, Mr. Watkins?

Mr. Watson - I'm, I'm the Senior Manager of Construction for Tops Markets.

Mr. Cooper - Where do you live?

Mr. Watson - I live in Jamestown, New York.

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

Mr. Watson - I do.

Mr. Cooper - And tell us about the other markets that, in the area that required area variances and what the results were that, in the municipalities if you can remember.

Mr. Watson - In Rutland, we built... They have a... It was a former Grand Union that Tops purchased. It is identical to the store here in Warrensburg. We did the exact same storefront with the peak. That required a variance from their Zoning Board in Rutland, and we were granted that. They felt the size was appropriate for the size of the peak that we built. The other location was in Greenville in New York. Tops purchased the Bryants Markets. We built the exact same peak that we're building here and it is the exact same sign. We needed to get a variance for that also.

Mr. Cooper - Were you denied any variances in these applications?

Mr. Watson - We have not been denied.

Mr. Cooper - Is Greenville down in Ulster County or Greene County?

Mr. Watson - Yeah, just south of Albany.

Mr. Cooper - Okay. Now do you have any stores that have signs that would conform to our zoning ordinance?

Mr. Watson - We have one.

Mr. Cooper - Where was that?

Mr. Watson - And that is in Cazenovia, New York.

Mr. Cooper - Can you explain the circumstances there? Did you take over a chain like you did in this instance?

Mr. Watson - Correct. We took over a, a (inaudible), P & C Foods.

Mr. Cooper - Hm hm.

Mr. Watson - And in that town, it was not as small as your requirements, but we were not able to (inaudible) sign. We had to put in a 54 inch sign.

Mr. Cooper - So how many square feet was that, do you think?

Mr. Watson - It was 54 square feet. So we were not able to put the sign we wanted up, but we were able to get a sizeable sign for what, for that market.

Mr. Cooper - Okay. Who are the representatives from Tops here? Do you have anything to offer as far as testimony is concerned?

Mr. Braymer - (Inaudible).

Mr. Cooper - Okay, and your name please?

Mr. Braymer - Brian Braymer.

Mr. Cooper - Brian Braymer?

Mr. Braymer - Correct.

Mr. Cooper - And what is your capacity with Tops, Mr. Braymer?

Mr. Braymer - Store Manager.

Mr. Cooper - This local store here in Warrensburg?

Mr. Braymer - Yes.

Mr. Cooper - Alright. Thank you, Mr. Watkins. Stand there if you'd like or you can sit down again. Before we proceed with the review of the statutory requisites for an area variance, I think we'll give the members of the audience an opportunity to speak. And is there anybody here who wants to speak in favor of the application for an area variance? Anybody in opposition? Alright, that makes it easy.

Mrs. Corlew - Jim, there's a letter that was submitted (inaudible).

Mr. Cooper - Yes, thank you for reminding me. We'll make that part of the record. It was Varney? Is that who wrote the letter?

Mrs. Corlew - Yes. Kathy Varney.

Mr. Cooper - Okay. Well, the board has, all members of the board have a copy of that. We'll make that Board Exhibit #1. Mrs. Varney's contention was that the, she and her husband apparently live on Sanford Street, which is some distance from this store and complained that the light pollution from the Grand Union used to bother them and they, they were pleased that that sign ceased to be functional and were disturbed to hear that the Tops sign would be larger and questioned why it had to be on all night. Now I ask you, why does it have to be on all night?

Mr. Watson - We are planning to put a timer on this particular side, so it'll go off a half hour after we close and a half hour before we open in the morning, if the whether permits, ya know, the dark mornings.

Mr. Cooper - When do you close?

Mr. Watson - Right now we close.. Is it 9? 9, 9, so 9:30, we'll keep the sign on 'til 9:30 and we'll shut it down.

Mr. Cooper - Do you keep the same hours all year round?

Mr. Watson - I'd have to defer to Brian on that one.

Mr. Braymer - (Tape inaudible).

Mr. Watson - So the latest would be 10:30.

Mr. Cooper - Alright. If the Board were to make that a condition of the area variance application, would you consent to the imposition of that condition? If the Board required a closure of, or non-illumination of the sign after 10:30 any day of the year, that would be satisfactory to you?

Mr. Watson - Yes.

Mr. Cooper - Okay. The first requisite under the Town Law that we have to consider with regard to an area variances is whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance. The sign company answers that

requisite by saying, "the sign will not create an undesirable change. The storefront is being improved with a new peak façade. The letters are in scale with the new storefront". Would you add... Would it be accurate to say that the, the new sign would be substantially similar to the Grand Union sign in the sense of its dimensions and visibility from the street?

Mr. Watson - It actually is smaller. It's smaller. The old Grand Union is 142 square feet. We're proposing 115 and we're also proposing to go into channel letters, so it's the Tops logo, T O P S. The Grand Union was that big oval, like a panel sign. So ours...

Mr. Cooper - Their 142 square feet was illuminated and you're just going to illuminate the letters, is that what you're saying?

Mr. Watson - Correct. Correct.

Mr. Cooper - So you think that the actual lumens that will reach out into the community will be less than there were before?

Mr. Watson - I believe it will be. And also theirs was a, a C12 volt sign. Ours are going to be LED. (Inaudible). The fluorescents really make an impact, but it spreads out; whereas, with our red lettering and the Led's, it's just going to, ya know, it's going to highlight the sign, but it's not going to spread out.

Mr. Cooper - Any board members have any comments to make about the, criteria number one? Questions? On to number two. Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance. You answer, "a variance is required because a 25 square foot sign that meets code would be too small on the new storefront". The master plan is presumed that the community, in its wisdom, decided or thought about this and decided that 25 square feet was adequate. So let me ask you, is there any other method feasible for you to pursue that would bring you into compliance with the 25 square feet and still get you the necessary public exposure? You do have the, you do have the sign out on Route 9, don't you?

Mr. Watson - We have a pylon sign. Our feeling is the 25 square foot sign and the new peak that we're building, the sign will get lost. It will be so small that if you miss the pylon sign, you would miss the building sign. The building, ya know, we want it to have good exposure to people passing by.

Mr. Cooper - Let me ask you this, sir. I noted as I drove down here tonight that, I looked over there and I noted that the Subway and the Family Dollar signs are much larger than 25 square feet it seems to me. Would you agree with me?

Mr. Watson - I'd agree with that.

Mr. Cooper - Yet they are smaller retail operations than you propose to run there, is that so?

Mr. Watson - Yes. They are smaller than us.

Mr. Cooper - Any questions on number two for this gentleman? Number three, whether the requested area variance is substantial. Well, I

think we'd have to say that to go from 25 square feet to 115 square is substantial. Do you agree?

Mr. Watson - I would agree.

Mr. Cooper - Alright. But it may be overborne by some of these other considerations. I guess that's your argument, right?

Mr. Watson - Yeah.

Mr. Cooper - Any questions on that or comments? Number four, whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? Well, the only impact it seems it'll have will be as the lady noted in the letter, light pollution and you say that because of the type of bulbs you're using and the fact that you're illuminating the letters rather than the whole sign as the Grand Union did, and as Subway does apparently, it will have less impact than the prior use.

Mr. Watson - That is correct.

Mr. Cooper - Is that right? We should note for the record that there's public lighting all along Route 9 in that section and it's not necessarily directed downward, although generally speaking, it is. Any questions on 4? Comments? Number 5, whether the alleged difficulty was self-created, which considerations shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude granting the area variance. Their answer is, "the difficulty is created by the sign code, allowing only 25 square feet of signage". Former Grand Union side was 142 square feet". I think your argument here is that if a business is precluded from requesting a variance when it moves into a community, attempting to meet its marketing needs that if you'd said that such an action was a self-created hardship, there would be no changes in the community whatsoever and no opportunity for a variance which the law says is required in order to make the law constitutional. Is that your argument?

Mr. Watson - Yes.

Mr. Cooper - Sounds like a pretty good argument, doesn't it?

Mr. Watson - It's a great argument.

Mr. Cooper - Now I note you have some attachments to the petition here.

Mr. Watson - And I also have one that I don't think... I actually have the pictures with me if you'd like to see, of Rutland, what the finished product is going to look like.

Mr. Cooper - I've seen a lot of yours stores.

Mr. Watson - Okay.

Mr. Cooper - You have one up in Stowe. I believe.

Mr. Watson - Is there another name for it?

Mr. Cooper - I don't think so. Maybe I'm mistaken.

Mr. Watson - Oh, we've got a bunch everywhere.

Mr. Cooper - Yeah. And I think generally speaking, they all have a consistent appearance.

Mr. Watson - Correct.

Mr. Cooper - That's part of your marketing strategy, isn't it?

Mr. Watson - Exactly. So when customers drive by, they see the Tops brand and they know what they're going to get.

Mr. Cooper - Okay. Where's... I can't seem to find it in my package here, but there was a... Oh, here it is. It's in the, the Grand Union photograph and then there's a rendering underneath...

Mr. Watson - Yes.

Mr. Cooper - ...what your sign would be.

Mr. Watson - Yeah.

Mr. Cooper - Does everybody on the board have one of these? Anybody in the audience like to look at this because it shows that the new Tops would be substantially smaller than the old Grand Union sign. Anybody want to look at that? And one other thing that I think is in the broadest sense germane to our jurisdiction, and that is that you're going to have to compete with another substantial supermarket chain just out of town, right?

Mr. Watson - That is correct.

Mr. Cooper - And you're paying land and school taxes here in Warrensburg, aren't you?

Mr. Watson - That is correct.

Mr. Cooper - And those guys are just paying school taxes, and they're getting a tax abatement because of the generosity of the School Board. Is that right?

Mr. Watson - That is correct.

Mr. Cooper - Well, I think whatever the business is, I think we wish you well and success in the community here 'cause we don't want to see a business fail, and I hope you, you are able to compete with that larger institution and that you'll be with us for a long time. That really has only a tangential relationship to your application here tonight.

Mr. Watson - Thank you. And ya know, Tops buying the Grand Unions, we're investing some money in the location. I'm not sure if you've been in there. We're in the middle, almost done with the remodel and Tops wants to be a good neighbor. We want to be here for a long time, and we want to support the community, and we want to make it a real nice store for everyone.

Mr. Cooper - Okay. Do you have anything else you'd like to add? Any questions for this gentleman or the other gentleman? Comments, questions or arguments from members of the audience? Don't be shy. This is your chance. Okay. You can sit down.

Mr. Watson - Thank you.

Mr. Cooper - Alright, at this time, I'm going to move this is a Type II listed action under the State Environmental Quality Review Act.

Is there a second to the motion?

Mrs. Winslow - Second.

Mr. Hall - Second.

Mr. Cooper - Mrs. Winslow seconds. For purposes of the audience, the State of New York has provided that when an administrative body has to review a land use decision, we have to make a finding whether there's a substantial environmental impact. And if so, the applicant has to submit rather extensive documentation to demonstrate that there won't be a significant environmental impact. And there is a categorization of land uses listed as Type II actions which says these things are not environmentally significant as a matter of law, and among these is area variances, which is what is before us here tonight. So we're required to go through the motions of SEQRA review even though the outcome is ordained. So the motion before the, the board is to declare this to be a Type II listed action. Therefore, no significant environmental impact as a matter of law. Motion's been made and seconded. Is there any discussion? All those in favor, indicate by saying aye.

Mrs. Winslow - Aye.

Mr. Morey - Aye.

Mr. Moffitt - Aye.

RESOLUTION #2013-23

Motion by: James Cooper

Second by: Alan Hall

RESOLVED, to deem application #2013-6 by Ulrich Sign Company for Tops Markets, for tax map #211.13-1-24, located at 3836 Main Street, for an area variance, as a Type II listed action under the State Environmental Quality Review Act.

DULY ADOPTED ON THIS 10TH DAY OF OCTOBER, 2013 BY THE FOLLOWING VOTE:

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

Nays: None

Mr. Cooper - Now at this time, I would move that if we grant the area variance that it be made a condition that the sign be extinguished and not illuminated after 10:30 at the latest on any given evening in the calendar year. Is there a second to that motion?

Mr. Moffitt - I'll second it.

Mr. Cooper - Mr. Moffitt seconds. Discussion? Think that's reasonable, Mr. Morey?

Mr. Morey - (Inaudible).

Mr. Cooper - Any comments? Okay. Then the motion is to impose a condition on the variance to prohibit the illumination of the sign after 10:30 p.m. any given day of the calendar year. All those in favor, indicate by saying aye.

Mr. Moffitt - Aye.

Mr. Cooper - Alright, let the record reflect the Board is unanimous.

RESOLUTION #2013-24

Motion by: James Cooper
Second by: Harold Moffitt

RESOLVED, to condition application #2013-6 by Ulrich Sign Company for Tops Markets, for tax map #211.13-1-24, located at 3836 Main Street, for an area variance, if approved. The condition being that the illuminated sign be extinguished at 10:30 p.m. on any given day.

DULY ADOPTED ON THIS 10TH DAY OF OCTOBER, 2013 BY THE FOLLOWING VOTE:

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

Nays: None

Mr. Cooper - That brings us to the primary matter before us, which is the decision on the area variance to allow the applicant to construct 115 square feet sign where the former signage was 25 square feet. As is the custom of the Board, the Chairman will move the matter in the affirmative. Is there a second to the motion?

Mr. Morey - Second.

Mr. Cooper - Mr. Morey seconds. Discussion? Any comments? Alright, we'll call the question. All those in favor, signify by saying aye.

Mr. Moffitt - Aye.

Mrs. Winslow - Aye.

Mr. Morey - Aye.

Mr. Cooper - Alright let the record reflect the Board is unanimous.

RESOLUTION #2013-25

Motion by: James Cooper
Second by: Mark Morey

RESOLVED, to approve application #2013-6 by Ulrich Sign Company for Tops Markets, for tax map #211.13-1-24, located at 3836 Main Street, for an area variance to allow construction of a 115.5 square foot sign, with the condition that the illuminated sign be extinguished at 10:30 p.m. on any given day of the year.

DULY ADOPTED ON THIS 10TH DAY OF OCTOBER, 2013 BY THE FOLLOWING VOTE:

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

Nays: None

Mr. Cooper - You have your area variance, but if you're required to get other municipal approvals that don't have anything to do with our board, you better make sure you do, okay. Alright. At this time, for the reason I indicated previously, that being I have a manifest conflict of interest, representing the Flanagans, who are apparently the, the new and accepted bidders on the Merrill Magee property, I'm recusing myself and Mr. Morey will run the rest of the meeting. Is there anything else we have, Patti, that's non-related to that?

Mrs. Corlew - (Inaudible).

Mr. Cooper - Thank you for your attention. Good luck.

Mrs. Corlew - Good night, Jim.

Mr. Morey - Next order of business is ZBA 2013-7. The letter from the previous applicant states that this is a person representing the owners (inaudible) what's the...?

Mrs. Corlew - Ballston Spa, the owner of the property (inaudible) the applicant for this project and their agent is Attorney John Wright.

Mr. Morey - Do you have an agent's authorization?

Mrs. Corlew - Yes, we just got it (inaudible).

Mr. Morey - Okay. Can you tell us how this comes before us?

Mrs. Corlew - Sure. Ballston Spa National would like to seek reestablishing the former use of a full service...

(Tape inaudible).

Mrs. Corlew - Anyway, they'd like to seek to have that use reestablished. A bed and breakfast is allowed in that zone, but a restaurant although is not any longer allowed in that zone. So that's, that's why they need a variance from you.

Mr. Morey - Okay. And you're the representative. Will you state your name for the record?

Mr. Wright - John Wright. I'm with the law firm of Bartlett, Pontiff, Stewart and Rhodes in Glens Falls. I represent Ballston Spa National Bank, the owner of the property.

Mr. Morey - Will you raise your right hand?

Mr. Wright - Sure.

Mr. Morey - Do you swear to tell the whole, the truth, the whole truth and nothing but the truth.

Mr. Wright - I do. It's not often that us attorneys actually get sworn in (inaudible).

Mr. Morey - I got to go by the rules here.

Mr. Wright - Just to kind of get us up to speed, an individual named Maynard Jarvis submitted the application. He believed he was the prospective purchaser (inaudible). He's no longer a prospective purchase. You have an authorization from him in the file that kind of hands the ball off to, to us to carry this application forward. So I'm here. I've got Mark Levack; he's the listing agent (inaudible). What I'd like to do is just kind of do a history and, and go through the application as to why we feel the use variance is appropriate.

Mr. Morey - Appreciate that.

Mr. Wright - You four are undoubtedly more familiar with the history of the Merrill Magee House than I am, but my understanding is that it was a longstanding restaurant use. There's been a restaurant there for decades up until just a few years ago. (Inaudible) voluntary choice and wrongdoing of the owners. The restaurant (inaudible). In the interim, I understand the zoning has changed so that restaurant use is no longer allowed. Bed and breakfast is, so the other buildings that are associated with the Merrill Magee House, the inn buildings, they're okay, and there are some rooms in the upstairs of the Merrill Magee House that could be used, but what the use variance is for is that as the numbers in the application show, there really is no way to make a reasonable return on that property without incorporating that restaurant use. Just simply running it as an inn, we lose money in the first year and lose more money in the second year and then more money in the third year. (Inaudible) details financial information in there to back that up, and I think that's really a self-evident thing that doesn't require hard financials, but the application requires hard financials, so they're there for you. Mr. Morey - I'd like to interrupt for a moment. We have a letter from the previous applicant asking us not to use his particular financials.

Mr. Wright - Yeah, he wrote that first thing this morning. And then about 4:30 today, we were able to get him to sign that authorization.

Mrs. Corlew - Yes, and he did call the office too, after, it was at twenty after four, to tell, to let us know that it was okay that they use the information because it would be pertinent to them also.

Mr. Morey - Otherwise, this application isn't very well filled out.

Mr. Wright - Without the financial information, Mr. Morey, we would be asking this Board to table it so that we could come back with a different application, but we feel that given that the application is, is complete as is and ya know, that the inability to make a reasonable return on an investment without the restaurant use is the main component, but there are three other factors (inaudible) but to renovate this to a conforming use, we would estimate the cost in excess of \$200,000, maybe, maybe much, much more. After a purchase price and renovations, there's no way to make that money back on your, what you've been charged for (inaudible). In terms of (inaudible) we go through our four factors, the second factor is whether the hardship is unique to this property and we submit to you that it is. Given the longstanding history of this particular property, as a full service restaurant, which I understand is kind of unique in the bed and, of all the B & B's here in Warrensburg, this one was unique in that it had the full service bar and restaurant and, and Mark and I just took a walk through before we came here tonight and it's still a restaurant. The tables are still set and everything is still a restaurant. So to try to make this a

residential use just isn't, just isn't feasible and, and sets this property apart from other properties in that area and really from any other (inaudible) in town. Ya know, allowing this, this variance is not going to change the essential character of the neighborhood. It's going to be opposite. It's going to restore it to, to what it was for, for decades until just a short time ago. We think that allowing that historic building to be preserved as is will bring a new business, a new fine dining restaurant into Warrensburg can only have a positive impact on not only the, the neighborhood, but the town as a whole. And, and lastly, this hardship is, is not self-created. If not for the prior owner, who certainly would probably still be in business if they had their choice, and certainly not for Ballston Spa National who, who lent the money, if they had it their way, the business would still be running and they would just be paying their payments every month. They had to foreclose and take title (inaudible) shutting down of the restaurant is really what necessitates this because of their change in zoning. So certainly that wasn't anything the prior owner wanted or that Ballston Spa National, who is the current owner, wanted. So we think that all four of the factors here really point in favor of granting a use variance, allowing this property to be restored to what it, what is historically has been. There's nothing new. It's really going to allow it to just restart as it always was. With that, we're here to answer questions if you have any. If not, we ask you to approve the application.

Mr. Morey - I have... How long has that been shut down?

Mr. Wright - We think it's about three years.

Mrs. Corlew - I thought it was two.

Mr. Morey - I don't have any questions right now. Does any of the other board members want to ask a question?

Mr. Hall - This restaurant (inaudible) it requires the New York State liquor license reinstated, right?

Mr. Wright - Depending on what the, what the, it, I know that was indicated in the application. That was Mr. Jarvis' application. I would anticipate and assume that the new, the owner of the restaurant will, will want to do that.

Mr. Morey - It's hard to run a restaurant that doesn't have a liquor license.

(Unknown Speaker) - They've got a beautiful bar.

(Tape inaudible).

Mr. Morey - Do any other members of the audience have any comments or questions? State your name for the record?

Mr. Rounds - Yes, sir. Bryan Rounds. I'm...

Mr. Morey - Raise your right hand please.

Mr. Rounds - I will, Mark.

Mr. Morey - Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. Rounds - I do. I'm Bryan Rounds. I'm a Town Board member and the zoning change that you're talking about, I, we were forced to do that through our, the ELAN Group and the grant we had for the, for the master plan to bring our town zoning into compliance with our master plan. So this ELAN Group came in and they had these, prepared ideas for us, we sat down at the meetings and I was at every meeting we held and they were workshops, so to speak, and we, one of the things we were tasked with doing was trying to find more commercial space around Warrensburg because our Main Street is so small and so we started to look for areas to branch out and maybe on King Street and back that way and to start to allow small commercial uses that aren't really a true sense of the neighbors. So we made some changes and, so that most of our changes were in effect to try to create more, more business. So one of the ideas that they had was to make Elm and Hudson Street, all restaurants would be, would be an allowed use in those zones (inaudible). So you if you picture Elm Street where all the old beautiful houses are back there. And so we started to get some flack on that, so we, so we backed off and we said well, nobody really wanted to see say the old Cunningham mansion turned into an Applebee's or, or something like that. So we, we backed off and we, and it's hard to do these things without painting a broad brush. We weren't really considering that the Merrill Magee, which is, I consider more of a Main Street property than an Elm and a Hudson 'cause it's right there at the intersection... So it kind of fell through the cracks that it somehow got labeled that it could only be a bed and breakfast and I'm pretty sure that was never the intention of those of us that sat on that committee or the zoning or, or whatever. So that's, I, I looked over their plan. I think it's a grand plan and it's really, it was nice when it was open before and we'd really like to see it open again. Thank you for your time.

Mr. Morey - I'm glad you gave us that information. Myself, I kind of wondered how that, how that did come about.

Mr. Rounds - (Inaudible) fell through the cracks (inaudible).

Mr. Morey - Anyone else?

Mrs. Parisi - Sandi Parisi, Town Historian and also citizen, who spent... I'm sorry.

Mr. Morey - Would you raise your right hand? Do you swear to tell the truth, the whole truth and nothing but the truth?

Mrs. Parisi - I do. Anyway... Do you want me to start all over?

Mr. Morey - No, you don't have to start over.

Mrs. Parisi - As a citizen who spent probably every Thursday for five, six, seven years at the Merrill Magee House playing games and having dinner and having a wonderful time, I'm thrilled that someone wants to come do it. As a Town Historian, I'm even more thrilled, because I worked on the Master Plan prior to Bryan's committee, and we never anticipated that it would never, that it would not be a restaurant forever. So we worked on that for three years,

approximately before it even got to Bryan. So the intent was never to not have it be a restaurant. The intent was not to make it an Applebee's or a Pizza Hut, so that may be how that came about. I had another thought that I was going to say. Oh, so if it couldn't be a restaurant... If it couldn't meet the requirements, it's very possible that the whole property could be developed as something else and we would lose a tremendous historical piece of property, and we'd also lose a place where it's sorely missed. I mean, there are not that many places where people can have a large group for dinner, etc. We have one or two and they're fine, but keeping this one would be great.

Mrs. Hall - My name is Irene Hall, and I live... I share the same driveway with Merrill Magee House. I have lived there 57 years.

Mr. Morey - Will you raise your right hand first? I'm sorry.

Mrs. Hall - Excuse me.

Mr. Morey - Do you swear to tell the truth, the whole truth and nothing but the truth?

Mrs. Hall - I do.

Mr. Morey - Okay. You can continue.

Mrs. Hall - And it's in disrepair. It's sad to see it go down. I didn't know that it couldn't be used as a restaurant. That's terrible 'cause it is a beautiful place if it's taken care of and hopefully that will happen. I've never had any trouble with anything with the people. The last people that owned it was, they weren't the greatest neighbors, the ones before 'em were wonderful and they ran a good business, the Carrington's, and so I'd like to see it fixed up and be a credit to the Town and be something... It is beautiful when it's taken care of, but it needs a lot of care and hopefully the new owners will repair things and cut down the dead trees, which is very dangerous along the driveway and have been for quite some time and nobody does anything about it. So I live right next door where I can see all of this stuff going on and ya know, it's, it's sad. So I would like to see it as a restaurant and would welcome it to the Town. Thank you.

Mrs. Parisi - I have one more comment. Do I have to do this again (be sworn in)?

Mr. Morey - No, you don't.

Mrs. Parisi - Okay, thank you. My husband and I ran a bed and breakfast for 38 years at a time when there were none in the area and then they started to come out and by the time, while we were really getting busy, there were eight of us in town. At this point, there are three that are functioning and I would love to see another one because it's a tremendous draw and the clientele that come do like to spend money and they, they eat at the better places. They shop at the better places. They're wonderful to have. That's another plus. Thank you.

Mrs. Winslow - Is it your intent to keep the main house, the main building (inaudible)?

Mr. Flanagan - (Inaudible).

Mrs. Winslow - You're not going to tear it down and start all over?

Mr. Flanagan - (Inaudible).

Mrs. Winslow - Alright.

Mr. Flanagan - (Inaudible; not up by the microphone).

Mrs. Flanagan - You better ask (inaudible).

Mr. Morey - I noticed that.

(Tape inaudible).

Mr. Morey - Will you raise your right hand please? State your name.

Mr. Flanagan - Michael Flanagan.

Mr. Morey - Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. Flanagan - I do. And I have brought pictures if you'd like to see what we are trying to do. The architect I'm trying to work with has always worked on the Mohonk House in New Paltz, New York. I don't know if any of you are familiar with that, but it's one (inaudible) New Paltz College and it's, it's a preserve. It's one, one of the truly wonderful homes in the United States. He's worked on the Copperfield Inn. He's worked on, I think he's involved with the Saratoga Race Track. I like where he's coming from. He's into the whole (inaudible) a master plan. This place needs a ton of money invested, so we're laying out a capital budget, ya know, where we can attack (inaudible). We'll have an engineer go in, assess everything so we have a starting point where I can go in and deal with wires, plumbing, ya know, check the basement. You got a lot of rot on the bottom and all those trees are coming down. It's a nightmare. It's making the house damp and nasty and then you got the (inaudible). I love sugar maples but they're all dead. I love to burn 'em, but...

Mrs. Winslow - (Inaudible).

Mr. Flanagan - What?

Mrs. Winslow - The swimming pool.

Mr. Flanagan - Is what?

Mrs. Winslow - What about the swimming pool?

Mr. Flanagan - The swimming pool I'm going to knock and fill in.

Mrs. Winslow - (Inaudible).

Mr. Flanagan - Just knock it down. It's a shame 'cause I like swimming, but it's too short for swimming and it's too deep and it's a hazard, ya know, so we want to fill it in for now. Mainly open things up. I think what everybody's going to like too is I think one of my favorite features is Hackensack. It's going to make it pop and all the community is just going to see it more because the sugar maples have kind of dominated things and ya know and taken, taken over. So we're just going to clean out the rubbish, clean out around the house, take the barn that was a (inaudible) old house, which was very nicely designed. You could even see, ya know, it done

architecturally, ya know, someone laid it out. It's solid as a rock upstairs. The floor doesn't give or nothing moves. That thing is as straight as arrow. I'd loved to get in the basement and see what the rocks look like. But if you don't mind, this is what we're kind of looking at. (Inaudible).

Mrs. Winslow - Oh wow.

Mr. Flanagan - (Inaudible).

Mrs. Winslow - I've known the Carrington's all my life and it has broken my heart to see it sit there and fall apart and I keep in touch with Pam in Florida and I, it's so sad to see it. I'm so happy that...

Mr. Flanagan - Yeah.

Mrs. Winslow - ...somebody's coming in to take it over and...

Mr. Flanagan - Well, thanks.

Mrs. Winslow - ...refurbish it.

Mr. Flanagan - Well, we came into town, this was probably the last place we were looking. We were all over the place and I kept, I told Bryan... As a matter fact, I found some, some brochures that mentions (inaudible) Lake George, (inaudible) Three Sisters. Up to Brant Lake looking for Three Sisters. Where are the Three Sisters? Couldn't find 'em, ya know. But we stayed at the Merrill Magee and we were just walking through the town and Donna saw a property and we bought it and built a house. So we've been here for a little bit. We had several family parties over there (inaudible). We'd like to see other people do that. (Inaudible). The grounds are outstanding, outstanding. (Inaudible) in the background, Hackensack. Whoever did it originally, there's a little pond out there we want to bring back to life.

Mrs. Winslow - (Inaudible) also have here a permit for a sign? Is that (inaudible)?

Mr. Flanagan - I haven't proposed a sign yet, but...

Mrs. Winslow - It's part of this (inaudible).

Mr. Flanagan - But as a heads up, what I was telling Bryan, what I'm looking at, I'm trying to emulate the Mirror Lake Inn look and Sagamore, that kind of thing. That would be that kind of sign. I'm figuring right on Main there and light it up at Christmas like they do, put the wreaths on and do the whole thing, ya know. (Inaudible).

Mrs. Winslow - (Inaudible).

Mr. Flanagan - Me too. I'm, I'm really (inaudible). My wife will tell you. It's just a big (inaudible) I can play with.

Mr. Hall - I got a question. Where are you going to find an old Packard touring car?

Mr. Flanagan - An old what?

(Laughter).

(Tape inaudible; people talking at once).

Mr. Morey - Okay, at this time, we're going to go through the SEQRA review. We have to do the long form because it's a use variance and, so we'll go down through this.

Mrs. Corlew - Excuse me, Mark. Do you have Part II?

Mr. Morey - Part II? I've got... I believe I got Part I.

Mrs. Corlew - Part I. (Inaudible) didn't get Part II, so I'm going to hand you (inaudible) fill it as you go, that would be (inaudible).

Mr. Morey - I'm a little rusty on use variances, although we did do one last month for the first time in two years, but so this will take a minute or two, but we'll go down through it. Now the Part I...

Mrs. Corlew - The Part I was for the applicant for fill out.

Mr. Morey - And that's all been completed.

Mrs. Corlew - Part 2's for you. Yeah. I am going to have Ballston Spa National sign this (inaudible).

Mr. Morey - I don't recall last month... I don't think we designated ourselves as the lead agency. I didn't see it in the minutes. But I believe by default we are. We'll proceed along those lines. Has everyone reviewed all the information in Part I?

Mrs. Winslow - Yes.

Mr. Morey - We've gone over the supporting documentation that was included in the application. (Inaudible). Number one's impact on the land. Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. I guess the answer to that would be yes. Does everyone agree with that?

(Inaudible). The proposed action may involve construction on land where depth to water table is less than 3 feet. I don't believe the water's (inaudible). Alan, do you have any...?

(Tape inaudible).

Mr. Morey - We'll mark no for that. Proposed action may involve construction on slopes of 15% or greater. (Inaudible) pretty flat. No on that one. If any objects... Just speak up. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.

Mrs. Winslow - No.

Mr. Morey - I don't think (inaudible) either. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material. (Inaudible). The proposed action may involve construction that continues for more than one year or in multiple phases.

Mrs. Winslow - No.

Mr. Morey - (Inaudible). The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).

(Tape inaudible).

Mr. Morey - The proposed action is, or may be, located within a Coastal Erosion hazard area. (Inaudible). Any other impacts that board members (inaudible). Impact on geological features. The proposed action may result in the modification or destruction of, or

inhibit access to, any unique or unusual land forms on the site (cliffs, dunes, minerals, fossils, caves). The answer to that we'll say is no. (Inaudible) 3. Impact on Surface Water. The proposed action may affect one or more wetlands or other surface water bodies (streams, rivers, ponds or lakes). (Inaudible). No on that.

The Zoning Board continued to go through the SEQRA review.

Mr. Morey - We need to identify the impact based on our answers on Part II (inaudible). Magnitude considers factors such as severity, size or extent of impact. I don't believe there's any impact other than required changing in the zoning (inaudible).

Mr. Lace - (Inaudible).

Mr. Morey - Do you think that any of the statements you have are going to affect the environmental..

Mr. Lace - (Inaudible). ...absolutely.

Mr. Morey - Okay, then would you come up to the..

Mr. Lace - (Inaudible). The question I have is, number one, is this the only parcel (inaudible) residential parcel that are attached to this property (inaudible).

Mr. Morey - Just a minute, Brian. We know who you are, but you need to state your name for the record.

Mr. Lace - My name is Brian Lace. I was Zoning Administrator for the Town for 21 years. I'm here representing my sister, who owns Jim Cooper's building that he's currently renting. (Inaudible) property and..

Mr. Morey - You need to, you need to raise your right hand.

Mr. Lace - Okay.

Mr. Morey - Swear to tell the whole truth, nothing but the truth?

Mr. Lace - So help me God. (Inaudible).

Mr. Morey - Is it necessary..? I know Mr. Lace has some... Would you be able to come to the microphone?

Mrs. Corlew - You can sit.

(Tape inaudible).

Mr. Lace - The only concerns... I'm not having a problem with the project itself. It looks beautiful, and it looks like it would be a very good job of (inaudible). The only concerns I do have is that with the issue of use variance, from what I'm aware of the zoning, that a use variance is forever and that it would be allowed to expand regardless of what you do for zoning from here on in, whether you change it, modify or whatever, the use variance would supersede all of that. And he would be able to expand that restaurant to the full extent of the property, and there wouldn't be any reason anybody could say no. So that gives me a little bit of concern, not for, ya know, the size of the restaurant now. It's obviously going to be a good job. It looks gorgeous, but we've had issues, number one with the property in the back being residential and access during the time when the restaurant was open from James Street, coming in and using that road, which was closed and was supposed to have never been used

for anything except residential purposes, certainly not for any kind of commercial traffic coming in from James Street. That was one issue.

Mr. Morey - I was on that Board and that was denied. That variance was denied.

Mr. Lace - Correct. So that's the issue. I mean, would that be part of his con, ya know, use. Would it ever be part of the use, if that property that's residential facing on James Street is going to continue to be residential properties or are they combined with the restaurant and now are going to one big piece of property that has a use variance on it? Because that could have an impact on the properties on James Street. Number two is, the entrance which I just mentioned with him and he gave me the answer that they're going to open the intersection where they enter from Hudson Street, that has always been a problem because the entrance itself. It's so small and the trees made it even narrower that you couldn't get a bus or you couldn't get any kind of delivery trucks, whether a tractor trailer, small ones that are used for local deliveries or for other kinds of tractor trailers that might obviously be needed to support the restaurant use, they can't make that turn. It's just impossible. If he widens it, certainly might be able to make that turn and they might be able to access, but it is very close to the intersection and I don't know if anybody's done a study of what that kind of impact would have on that intersection for buses turning and going in there or tractor trailers turning and going in there. It's not a biggy but has it been addressed? Is it something that you guys have looked at or any kind of conditions on the use variance?

Mr. Morey - I believe that would be an issue for the Planning Board once this is approved. (Inaudible) to them. That's their job is to mitigate those, those issues.

Mr. Lace - So you're saying that you would grant them the use variance, but they'd have to go to the Planning Board...

Mr. Morey - They still have to go...

Mr. Lace - ...still have to look at it for those types of issues.

Mr. Morey - I believe that's the procedure.

Mr. Lace - Once you've issued the use variance, isn't that kind of the final straw or should it go to the Planning Board before you issue the use variance?

Mr. Morey - (Inaudible).

Mr. Lace - So see whether you have any conditions on it?

Mr. Morey - Not with my understanding of the variances.

Mr. Lace - Okay.

Mr. Morey - If, the ordinance, if they, once they're approved, they'd still because that, I don't know, that's... It's a not a new use, but that last sentence in the ordinance says any change, any change of use, remember we had a, an issue with that when they wanted to put the amusement part, I guess, up where the post office is. And at

that time it was determined by this board that they, unless they've taken that sentence out of the ordinance, that they had overview of everything. In fact, but I understand your concern. And I think, also, that for them to do any type of widening or curb cutting there, that they would have to have that approved by the County. I believe it's (inaudible).

Mr. Lace - Which is something that made me wonder why the County said no county impact. 'Cause that's usually the purview of the County Planning Board to discuss and with the County Highway Department to come back with any impacts at that intersection.

Mr. Morey - On your, on your...

Mr. Lace - 'Cause I know they've had problems there in the past, so.

Mr. Hall - How did they supply the previous restaurant?

Mr. Lace - They used to walk it in. They would park on Hudson Street, actually right in front of my sister's. Literally there would be a bus and then there would be a tractor trailer parked there and depending on who got there first, usually the tractor trailer would roll it off the back, park right past my driveway, right into (inaudible), park right in front of Irene's and then he would wheel the stuff on the sidewalk and down into the back. That's the only way that he could get in 'cause they can't make a delivery (inaudible).

Mr. Morey - So it would be...

Mr. Lace - So...

Mr. Morey - ...a benefit for them to widen that.

Mr. Lace - It would definitely be a benefit, but ya know, the County would obviously have, have to have some concerns about how close to the intersection you're getting when you make the deliveries and how wide it would be. I don't really, I mean it's not anything I'm going to be, (inaudible) it's going to make the situation better, but did the County have any problems with it as far as accessing with tractor trailers and buses and if they don't, then great. I mean, I'd say fine, but the biggest thing I had the concern with is the size of the property because of those two other parcels being residential, I don't know if it's still zoned residential or not, I haven't kept up with the change in zoning.

Mrs. Corlew - It's residential/recreational. It's the same zone...

Mr. Lace - As it was, pretty much.

Mrs. Corlew - ...as... The whole property is the same zone.

Mr. Lace - I remember there was a ton of controversy from the people on James Street saying they did not want any kind of commercial traffic going in James Street, so that's the only concern. I thought maybe you might consider that as a restriction or something on the use variance.

Mr. Morey - I believe they would still need a variance to do what they'd asked to do before.

Mr. Lace - Well, if you give 'em a use variance for the whole property and...

Mr. Morey - The use variance though as written is to (inaudible) to allow a restaurant in the existing building.

Mr. Lace - So it's contained to the existing building.

Mr. Morey - Well, it allowed for improvements of other areas.

Mr. Lace - And extensions, 'cause it looks like they have some extensions that they want to do and if you limit it to the existing building, I don't know how they could do that.

Mr. Morey - Okay. Let's... I'd like to finish this...

Mr. Lace - No, it's no problem. I'm just saying, those are concerns, impacts...

Mr. Morey - We'll address those in a minute.

Mr. Lace - Address 'em, fine. I'm not... I'm in favor of it. (Tape inaudible).

Mrs. Hall - Can I say something please in regards to this?

Mr. Morey - Yes.

Mrs. Hall - It's been my understanding ever since I lived there, 57 years, that that front driveway, I own the, all (inaudible). And the law has always been that no delivery trucks go in or out of that driveway. It's too near my house and it's not supposed to be... They park out in front and there, that's legal. That has never been so any delivery trucks can go in or out that driveway. Nobody is (inaudible) I was told by Sheriff's Patrol that no one is supposed to go in that driveway unless they're going to the Merrill Magee House or to my house. So I know that they always, the Carrington's always, and the other people, always did that though and they always told their delivery guy not to come in. It's very close to my house. My water pipes, the sewer pipe and all that is right under that driveway. And so they only (inaudible) and they had to park out in front. Now that they've opened the back, I don't see why they couldn't come in the back. They're never been allowed through there. No, no buses or anything have ever been through there. I know. I've been there 57 years.

Mr. Morey - Well, that's really not something this board can address. It would be with the Planning Board. I'm sorry, but it's not, that's not our, we don't have any jurisdiction on that, unless that's what the variance was for. It was for a driveway or something like that, then we would, we would have to go over that, but as far as enforcing your (inaudible) deed covenant, covenants or whatever it is that restricts that, that would be between you and your neighbor and the County I would assume.

Mr. Lace - (Inaudible) comment?

Mr. Morey - Yes.

Mr. Lace - In my deed and my sister's, in the deed itself, and I think I got copies if, if you would like to see it, but the entrance to Merrill Magee and the entrance to what used to be the bakery,

around the back of Irene's, there's a deeded right-of-way, and it's called a shared right-of-way. It's shared with Merrill Magee property so that they could drive in and come back out using my driveway if they wanted to around Irene's back, or I could do the same. We've never used it that much other than for me to plow and that would be to clean out through Irene's and straight through so she could park if she wants to. Sometimes I do that; clean it out for you, but that's in the deeds for both properties, is the shared right-of-way (inaudible). So I don't know how that affects anything, but I just wanted you to have that information so you were aware of it.

Mr. Morey - Okay. The next step is to, we need to, if we were to have found yes on any, I guess on a significant number of these questions, then we would have to proceed to ways to mitigate that, but the only yes answers that we have for impact are concerning the, the non-conformity (inaudible) new zoning ordinance. So I don't, I don't see where there's any determination of significance. I, we got three choices. The project will not result in any large or important impacts and therefore one which will not have a significant impact on the environment; therefore a negative declaration will be prepared. B, although this project could have a significant impact or effect on the environment, there will not be a significant effect for this unlisted action because the mitigation measures describes in Part 3 have been required; therefore, a conditioned negative declaration will be prepared. (Inaudible) mitigate anything yet or (inaudible). The project may result in one or more large or important impacts that may have a significant impact on the environment, therefore a positive declaration will be prepared. I would say this is A, a negative declaration will be prepared. (Tape inaudible) make a motion on that. (Inaudible).

Mrs. Corlew - Yeah.

Mr. Morey - I make a motion (inaudible) negative declaration will be prepared. Is there a second?

Mr. Hall - Second.

Mr. Morey - All in favor, say aye.

Mrs. Winslow - Aye.

Mr. Moffitt - Aye.

Mr. Morey -Aye.

Mr. Hall - Aye.

RESOLUTION #2013-26

Motion by: Mark Morey

Second by: Alan Hall

RESOLVED, to deem application ZBA #2013-7 by Ballston Spa National Bank, for tax map #210.16-2-43, located at 3 Hudson Street, for a use

variance, as a Type I listed action under SEQRA review and a negative declaration will be prepared.

DULY ADOPTED ON THIS 10TH DAY OF OCTOBER, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Winslow, Alan Hall, Mark Morey, Harold Moffitt

Nays: None

Mrs. Corlew - I'm going to have you sign this.

(Tape inaudible; people talking at once while Mr. Morey signs SEQRA form).

Mr. Wright - (Tape inaudible). That's the only way it's ever going to sell (inaudible).

(Tape inaudible).

Mr. Morey - ...submitted a hypothetical (inaudible) viable without a restaurant. (Tape inaudible).

Mr. Lace - All the uses that are allowed (inaudible).

(Tape inaudible; people not speaking by the microphone).

Mr. Wright - ...two offers, both of which were contingent on the restaurant (inaudible). 100% of the market for this property (inaudible). The restaurant use (inaudible).

Mr. Morey - And you will remember (addressing Mr. Lace) that one of our criteria has always been... (Inaudible) been on the market (inaudible) some evidence (inaudible).

(Tape inaudible; Morey explained to Mr. Lace that they already went over the financial aspects of the application).

Mr. Morey - So I guess I make a motion to approve the variance. Is there a second?

Mrs. Winslow - Second.

Mr. Morey - All those in favor, say aye.

Mr. Hall - Aye.

Mr. Morey - Aye.

Mr. Moffitt - Aye.

RESOLUTION #2013-27

Motion by: Mark Morey

Second by: Donne Lynn Winslow

RESOLVED, to approve application ZBA #2013-7 by Ballston Spa National Bank, for tax map #210.16-2-43, located at 3 Hudson Street, for a use variance, to allow the applicant to re-establish the former use of a restaurant.

DULY ADOPTED ON THIS 10TH DAY OF OCTOBER, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Winslow, Alan Hall, Mark Morey, Harold Moffitt

Nays: None

Mr. Morey - You've got your variance (inaudible).
(Applause).

Mr. Hall - Still got a few (inaudible).
(Tape inaudible; people talking at once).

Mr. Morey - If there's no other... Is there any other business for the Board tonight, Patti?

Mrs. Corlew - No, there is not.

Mr. Morey - I make a motion to adjourn.

Mrs. Winslow - Second.

Mr. Hall - Second.

Mr. Morey - All those in favor.

Mr. Moffitt - Aye.

Mr. Hall - Aye.

Mr. Morey - Aye.

Mrs. Winslow - Aye.

Motion by Mark Morey, seconded by Donne Winslow and carried to adjourn Zoning Board of Appeals at 8:27 p.m.

Respectfully submitted,

Patti Corlew
Recording Secretary

Pb10102013

RESOLUTION #2013-23

Motion by: James Cooper
Second by: Alan Hall

RESOLVED, to deem application #2013-6 by Ulrich Sign Company for Tops Markets, for tax map #211.13-1-24, located at 3836 Main Street, for an area variance, as a Type II listed action under the State Environmental Quality Review Act.

DULY ADOPTED ON THIS 10TH DAY OF OCTOBER, 2013 BY THE FOLLOWING VOTE:

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

RESOLUTION #2013-24

Motion by: James Cooper
Second by: Harold Moffitt

RESOLVED, to condition application #2013-6 by Ulrich Sign Company for Tops Markets, for tax map #211.13-1-24, located at 3836 Main Street, for an area variance, if approved. The condition being that the illuminated sign be extinguished at 10:30 p.m. on any given day.

DULY ADOPTED ON THIS 10TH DAY OF OCTOBER, 2013 BY THE FOLLOWING VOTE:

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

RESOLUTION #2013-25

Motion by: James Cooper
Second by: Mark Morey

RESOLVED, to approve application #2013-6 by Ulrich Sign Company for Tops Markets, for tax map #211.13-1-24, located at 3836 Main Street, for an area variance to allow construction of a 115.5 square foot sign, with the condition that the illuminated sign be extinguished at 10:30 p.m. on any given day of the year.

DULY ADOPTED ON THIS 10TH DAY OF OCTOBER, 2013 BY THE FOLLOWING VOTE:

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

RESOLUTION #2013-26

Motion by: Mark Morey
Second by: Alan Hall

RESOLVED, to deem application ZBA #2013-7 by Ballston Spa National Bank, for tax map #210.16-2-43, located at 3 Hudson Street, for a use variance, as a Type I listed action under SEQRA review and a negative declaration will be prepared.

DULY ADOPTED ON THIS 10TH DAY OF OCTOBER, 2013 BY THE FOLLOWING VOTE:

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

RESOLUTION #2013-27

Motion by: Mark Morey
Second by: Donne Lynn Winslow

RESOLVED, to approve application ZBA #2013-7 by Ballston Spa National Bank, for tax map #210.16-2-43, located at 3 Hudson Street, for a use variance, to allow the applicant to re-establish the former use of a restaurant.

DULY ADOPTED ON THIS 10TH DAY OF OCTOBER, 2013 BY THE FOLLOWING VOTE:

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