

**Minutes
Warrensburg Zoning Board of Appeals
June 12, 2014**

Board Members Present: Donne Lynn Winslow, James Cooper, Mark Morey, Harold Moffitt

Board Member Absent: Alan Hall, Sr.

Others Present: Toby Sheikh, Peter Klochany, Patti Corlew, Chris Belden (Zoning Administrator)

Mr. Cooper – Alright, I'll call the meeting to order. The first item of business on the agenda is the roll call. The only board member not presented and seated is Mr. Hall. The next item of business on the agenda is the approval of the minutes of May 8th. Are there corrections or changes?

Mr. Morey – I don't.

Mr. Moffitt – I don't have any.

Mr. Cooper – None of you people were born to be editors.

Mrs. Winslow – (Inaudible).

Mr. Cooper – On page 155, the first page, the middle of the page.

It's the paragraph beginning, Mr. Cooper – "Alright", the third line down, it says, "I had to recluse myself". It should be recuse, without an "L".

Mrs. Corlew – Spell check doesn't that recognize that.

Mr. Cooper – Page 159, two third, a third of a way down, Mr. Cooper – "and their criteria", the bottom line of that statement should be "soup" not "sooth", beaucroatic soup. Page 163, about halfway down the page, the sentence begins, "subdivision, so you have to get," instead of confident advice, it should be competent advice. Any other changes are amendments? The Board agree with those changes?

Mrs. Winslow – Hm hm.

Mr. Moffitt – Yes.

Mr. Cooper – Let the record reflect that the minutes are approved by consensus. Next item of business on the agenda is area variance 2014-2. Could you pronounce your name, sir?

Mr. Sheikh – Tabassum Sheikh.

Mr. Cooper – That's alright. You can stay seated for now. Tabassum Sheikh?

Mr. Sheikh – Yes.

Mr. Cooper – That's how it's pronounced?

Mr. Sheikh – Yes.

Mr. Cooper – Alright. I want to be, I want to respect you for your name and I'll at times, I don't get it right when I'm not familiar.

Mr. Sheikh – Yeah. You can call me Toby.

Mr. Cooper – Okay, Toby. Mr. Belden, would you, as is the custom of the board, explain how this matter comes before us please?

Mr. Belden – Sure. The applicant here, Toby, from the Warrensburg Tire House, is looking to construct a freestanding sign to replace the former Getty sign, and the, however, the sign he's proposing to put up would, would result in a size of about 55 square feet; however, the current zoning only permits freestanding signs to be no larger than 32 square feet, so he has asked to get an area variance to do so.

Mr. Cooper – Is this sign to be in addition to the, the one portrayed for the, like the gasoline supplier, Gulf? Or is it..?

Mr. Belden – This sign will... This sign will include... In your packets there, it's, it's showing...

Mr. Cooper – Let me ask you this way, is he grandfathered for a larger sign for the service station?

Mr. Belden – No. Not, not for this sign here.

Mr. Cooper – So this example that we have here I'm showing you.

Mr. Belden – Yes.

Mr. Cooper – It says page, it says 12 in the upper right-hand corner.

Mr. Belden – Yep.

Mr. Cooper – The Gulf sign has nothing to do with his proposal? It's just his proposal to erect a freestanding sign at that spot. Is that right? In the place of the Gulf sign as portrayed in this exhibit?

Mr. Belden – Correct. I mean, right now, right now there's nothing there. It used... It used to have, used to say Getty. That, that sign's since been taken out when the company sold this winter. The variance will include... Well, he's putting in a Gulf sign. Below that, a price sign and he will be taking down... There's, there's currently a white freestanding Warrensburg Tire Ware, Tire House sign closer to the building than this here and, but that'll be taken down and will be added to the bottom of this.

Mr. Cooper – Toby, would you raise your right hand please? Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. Sheikh – Yes, sir.

Mr. Cooper – If you find... I don't know what your ethnicity is, but if you object to that, taking an oath, you can swear or affirm that you'll tell the truth. So whichever you feel more comfortable with.

Mr. Sheikh – I'll tell the truth.

Mr. Cooper – Okay. Let's take your application from page 1 right through the end. Okay? It's says, "we have great disadvantage versus the competitors because customers will not be able to see clearly and easily while driving. The huge health center building very close to the road and it completely blocks the view of my business from the southbound, not giving enough time for customers to see my business while driving". Who are you competitors in town, for the sale of tires?

Mr. Sheikh – Jacob and Toney, Mobil gas station.

Mr. Cooper – That's gasoline.

Mr. Sheikh – Gasoline, yes.

Mr. Cooper – Alright.

Mr. Sheikh – (Inaudible) gasoline sign and...

Mr. Cooper – O... Stop there. The last I knew you took your, your storage tanks out. Are you going to begin, resume selling gasoline again?

Mr. Sheikh – Yes, they are working on it right now, and middle of July it will be done.

Mr. Cooper – Okay.

Mr. Cooper – So any, any business in town that sells gasoline you consider to be your competitor when you go into the business of gasoline? And is Gulf going to be your initial supplier anyway?

Mr. Sheikh – Yes.

Mr. Cooper – Gulf Oil?

Mr. Sheikh – Yes.

Mr. Cooper - Is that why you attached these exhibits that show Gulf...

Mr. Sheikh - Yes.

Mr. Cooper- ...product signs.

Mr. Sheikh - (Inaudible).

Mr. Cooper- You're gesturing at the gentleman next to you. Would you give us your name please? Not you. Him. Toby.

Mr. Sheikh - His name is Pete.

Mr. Cooper - Pete. Do you have a last name, Pete?

Mr. Klochany - Klochany.

Mr. Cooper - Okay, and you're with Gulf, the sign company or who?

Mr. Klochany - I'm actually the distributor, Sandri Energy, out of western Massachusetts and we are partnered up with Gulf. We are able to offer the Gulf flag.

Mr. Cooper - Okay. Alright, Toby you say here under the area variance, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby property will be created. You say, "we are competing with other gasoline stations on the road. Construction of my gas station and sign also health center building will enhance the neighborhood next-door huge health building close to the road caused invisibility of my business and sign". See, Toby, I'm looking at this in two respects, okay. Once you get that big Gulf sign up there, there's going to be no confusion north or south that you sell gasoline. Right? So your complaint here is about your tire business. Is that essentially correct?

Mr. Sheikh - No, sir. It is... The Gulf, the total Gulf sign and price sign altogether is 55 square feet and then I (inaudible) all of them combined (inaudible) 55 square feet. It was 60 square feet existing and Getty's standing sign, free standing sign is still there. Price sign is still there and (inaudible) and altogether (inaudible) existing sign total 60 square feet. So I'm (inaudible) less than 55 square feet sign (inaudible). And that's the minimum I can go, so that's why (inaudible).

Mr. Cooper - Your argument is that to, as you resume sale of gasoline product, you have to have a Gulf sign and they have industry standards that you have to meet with regard to minimum size. Your existing business is the sale of tires. Correct? Right now?

Mr. Sheikh - Yes, it is.

Mr. Cooper - And in order to continue to advertise to your customers that you sell tires, you need to have a sign indicating you sell tires. Right?

Mr. Sheikh - Yes.

Mr. Cooper - And if, if you use the same sign that you have now and affix is below the Gulf sign, that'll put you over the size limit permitted by the community here. Is that right?

Mr. Klochany - It's not the same sign. I think, I think you (inaudible). It's not the same sign. Actually on that, on the (inaudible) that you said, on page, that says 12 in the corner, the sign that says the Tire Warehouse is only two feet by five. It's not the same sign that's up right now. It's a very small sliver at the bottom of the, of the sign. And the Gulf brand offers a five, a seven, a ten and a 12 foot sign going from side to side. So we are choosing the, the smallest sign that they offer, that they manufacture, that they manufacture.

Mr. Belden - Jim, if I could, if I could jump in.

Mr. Cooper – Sure.

Mr. Belden – Like I said, currently there's a monopole where, the monopole being, supporting the frame where the Getty sign used to be and then he has another sign, another monopole that, that holds a larger Tire House sign. That sign will be coming down. He'll be attaching to this sign here because, by putting this sign up, he's going to have another sign on, on a new gas canopy he's going to be putting up and then the sign on the building. With, he, I guess he's adding his Tire House sign to his Gulf sign because if he didn't, he'd be, he'd be asking for a variance for the number of signs allowed. And that sign, the sign that he... The Tire House...

Mr. Cooper – Raise your right hand, would you please, Mr. Belden? Do you swear to tell the truth and nothing but the truth, so help you God?

Mr. Belden – Yes, I do.

Mr. Cooper – Do you think you could see this sign, either one of the them, from the southbound lane as you approach the property? Do you think that the health center, the new structure is going to obscure it in any way?

Mr. Belden – Perhaps. He's also, like I said, he would be adding gas canopies when he constructs these new filling stations. He's got a site plan here. I don't know if you want to see this plan.

Mr. Cooper – I do.

Mr. Belden – Sure.

Mrs. Winslow – Is this new sign going to be in the spot where the frame is now?

Mr. Belden – Yes.

Mrs. Winslow – The empty frame.

Mr. Belden – It may have to be a little further back...

Mrs. Winslow – Towards the building or towards..?

Mr. Belden – Towards the building. I think, 10, 10 feet from the property line. This is, this is... The health center would be this, this way.

Mr. Cooper – Hm hm.

Mr. Belden – This is where his business is. This is where the existing sign is, and there would be a gas canopy here with some pumps and two more pumps over here with the, with the gas canopies. So...

Mr. Cooper – Where's his new sign going to be?

Mr. Belden – In this same area here.

Mr. Cooper – What about this over here? There's a sign base.

Mr. Belden – That's a New York State D.O.T. sign.

Mr. Cooper – Okay.

Mr. Belden – Yep.

Mr. Cooper – Well, we're entitled to use our own personal knowledge of, in these proceedings, Toby, and my personal knowledge is I looked at that very carefully. I don't see how that the health center obscures the view of your property in any respect, unless you're on the other side of the health center. But when you're northbound in a vehicle, you can see it very clearly. And the only other tire salesman in town is Bob Griffin's Sunoco, and they don't even have a freestanding sign. They just have one on the side of their building. And I noticed also that you put display racks of tires right out by the road. And to me, I don't know how anybody could drive by and say

that man doesn't sell tires when you have display racks out. So that's like a sign.

Mr. Klochany - May I address the board?

Mr. Cooper - You can raise your right hand and swear you. State your name please.

Mr. Klochany - Peter Klochany.

Mr. Cooper - And do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. Klochany - I do.

Mr. Cooper - Go ahead, Peter.

Mr. Klochany - Thank you. First of all, thank you to the Board for your time for this appeal. Unlike other retail businesses, our industry, customers shop from the road as they're driving. That's very unique to our industry and this appeal really is... The crux of this appeal is really not so much the tire sign. That's a nice ad, two foot sliver. It really is... The appeal for me is the size of the sign. When a customer's driving by, they have a split second to decide whether they're going to shop based on the price of our, of our product and in this case, it's regular gas, the diesel and then unleaded or whatever Toby chooses to do. In my mind, by having such a small size, it inhibits (inaudible) it hinders our customers from gaining a little bit farther view. As you see, the Cumberland Farms has one product, big beautiful sign with one product they can see. Fortunately for Toby, we have other products that we are going to offer our, offer our customers. The reason for this variance, the main reason in my heart is not the tires. It's really the price sign, actual, the numbers being big enough for our customers to see at 30, 30 miles an hour...

Mr. Cooper - Stop.

Mr. Klochany - ...in traffic with other businesses.

Mr. Cooper - Stop. Is his Gulf sign proposal in violation of the square footage of the ordinance if he just did that by itself?

Mr. Belden - No. Well, no. That would... The Gulf sign itself, I guess would be roughly 25 square feet, and then the other would be another 20, another 20 and then, and then the other sign has about, I guess 10 square feet.

Mr. Cooper - So answer my question, is the Gulf sign and his plan to put prices up there with it in violation of our ordinance?

Mr. Belden - If he wishes to put up the Gulf sign with the price sign, yes. We're talking 35 square feet, plus or minus a couple inches.

Mr. Cooper - And what does he need... And he has to have 32? 32 as opposed to 35?

Mr. Belden - 35, yes; however, however, I guess if he didn't have the tire sign, he'd be coming before you anyways for an area variance based on the number of signs. Given that he's a corner, on a corner, he's, he's permitted to have three signs. He, he currently has an existing sign on his building. He's going to have this sign here and one on the gas canopy, and I guess if he wanted to advertise his tire house with a freestanding sign...

Mr. Cooper - Dave, he's going to have something on the canopy, isn't he? What's that going to say?

Mr. Klochany - Just Gulf.

Mr. Cooper - Just Gulf. So if you, ya know, in terms of your argument about people getting a visual of the property as they approach it,

that's going to ameliorate your problem slightly, isn't it, having a Gulf sign on the canopy?

Mr. Klochany - That's true, but we feel...

Mr. Cooper - And one will face south in the direction of northbound traffic. Correct?

Mr. Klochany - One will face south, yes.

Mr. Cooper - And probably one will face north in the direction of southbound traffic.

Mr. Klochany - That's correct.

Mr. Cooper - Right?

Mr. Klochany - The canopies are set back farther, so the southbound, excuse me, the northbound traffic will have a disadvantage with that building.

Mr. Cooper - Well, not from...

Mr. Klochany - Of the canopy. Not the sign.

Mr. Cooper - I'm looking at your plans here. It looks like it's pretty close to the curb.

(Tape inaudible).

Mr. Belden - The two canopy signs?

(Tape inaudible).

Mr. Belden - So if you were heading (inaudible), if you were heading southbound, you wouldn't see a Gulf sign on a canopy.

Mr. Cooper - (Addressing Mr. Morey) An inch equals 10 feet. So that's what, about a quarter inch, would you say? Right here. One inch is 10 feet.

(Tape inaudible).

Mr. Cooper - You think that's half an inch? Well, using our thumb as a scaler, Mr. Morey and I think the edge of your canopy is going to be about five feet from the sidewalk, linear distance, according to this plot plan. Is this our copy or is one you need for your records?

Mr. Belden - (Inaudible) file.

Mr. Cooper - Alright. For purposes of the Board, I'll make this Board Exhibit #1.

Mr. Belden - You can write on it.

Mr. Cooper - Enter it into the record. Do you dispute that, that it'll be more than five feet away from the sidewalk?

Mr. Klochany - No.

Mr. Cooper - Okay. Do you have anything else you want to add, Dave (Pete)?

Mr. Klochany - No.

Mr. Cooper - Toby, do you want to add anything 'cause we're going to go down through the rest of the statute requirements now and as you have comments or things perhaps that you had overlooked, you'll have another chance to speak here, but just now in this colloquy that we're having about this proposal, do you have anything you want to add that we, you think is important that we've overlooked so far?

Mr. Sheikh - The canopy is from the main road (inaudible) from the intersection is 30 feet, from the intersection.

Mr. Cooper - Yeah, but we're talking about... The reason this subject came up is Dave (Pete) indicated that you're going to have Gulf signs on the edge of the canopy, both north and southbound. So people are at least going to know that you're selling gasoline product there. The question here is whether we should grant you a variance to

increase the size of the display on the Gulf sign to add your tire venue thing. Presumably he could leave it where it is, couldn't he?

Mr. Belden - Right. I just wanted to clear...

Mr. Cooper - Can he put, can he put a sign on his building just like Griffin Sunoco does?

Mr. Belden - On the... He's... Just so I have clarification, there's only going to be one Gulf canopy sign, only one, facing, facing the traffic, coming from the health center.

Mr. Sheikh - (Inaudible).

Mr. Cooper - Oh, there's only going to be one canopy but he's telling us that he's going to have Gulf on three sides of it, facing the...

Mr. Belden - No, one side.

Mr. Sheikh - One side.

Mr. Belden - One side.

Mr. Cooper - What side, south or north?

Mr. Klochany - We haven't decided. Probably going to go with the southbound side, because (inaudible). The graphics of the...

Mr. Cooper - So the whole canopy doesn't count as one sign? It would count as three sides (signs).

Mr. Belden - Yeah, I guess I would, I would consider that to be a, one sign, one sign each. Ya know, they, they, if they have three signs on the canopy, that would be their limit on the number of permitted signs for the, for the business itself.

Mr. Cooper - How 'bout the Gulf sign, do you count the front and back as two?

Mr. Belden - No. Our, our code, our code indicates that a freestanding sign, double-sided, shall count as one sign. And the code, area, square footage...

Mr. Cooper - So here's the choice that the Board has before we go down through the statute. We can grant him a variance to erect the Gulf sign which is going to be three feet out of compliance, more or less with the area requirements of the code. Right? Without the tire sign?

Mr. Belden - Without the tire sign.

Mr. Cooper - With the tire sign, it's a difference of 55 square feet versus 32 square feet. Right?

Mr. Belden - With just the price sign and the Gulf sign, yes, (inaudible) square feet would be the difference.

Mr. Cooper - Alright, let's go down through the criteria. We started on this and I got off on a tangent. Whether an undesirable change would be produced in the character of the neighborhood and a detriment to nearby properties will be created by granting of the area variance. And you say, "no". You say you're competing with five other gas stations on the road. "Construction of my gas station and sign also the health center building will enhance the neighborhood. Next-door to the huge health building close to the road causes invisibility of my business and sign". I've already indicated to you, sir, that I don't agree with that last statement. So let's go onto the next one. Any Board members have any questions about that or observations you want to make?

Mrs. Winslow - I don't agree with it either, 'cause when I came into town from the south tonight, I, as soon I made the turn by New Way Lunch, I could see the whole gas station and, and the frame that's there...

Mr. Cooper - Yeah.

Mrs. Winslow - ...with no problem, and that was coming around the turn, and I had no problem seeing that. The Health Center did not block it.

Mr. Cooper - Mr. Belden, if he puts a rack of tires out on the, underneath his Gulf sign, assuming we approve that, is that counted as a sign under the then Town Code ordinance too.

Mr. Belden - If he puts a tire rack?

Mr. Cooper - Yeah. With about 20 tires stacked next to each other.

Mr. Belden - No, it's not. You could also... I mean, there are other...

Mr. Cooper - Did you ever read the Great Gatsby?

Mr. Belden - No.

Mr. Cooper - Well, one of the features of the book, it's allegorical, is that an optometrist has, runs his shop and he has eyeglass frames outside rather than a sign. Presumably people go by and see the eyeglass frames and they think gee, the guy must be an optometrist. You follow me? So it's a sign without any script. And the tires in a way would be in the same vein, wouldn't they? People would say, the guy there must sell tires. He's got a rack of 'em out by the road.

Mr. Belden - That would be a real issue if people that sell gas with the gas pumps because by that same definition...

Mr. Cooper - So it's not a sign, but it serves the purpose of a sign. You follow me?

Mr. Belden - Yes.

Mr. Cooper - Under our code, it's not a sign.

Mr. Belden - No.

Mr. Cooper - Okay. Number two, whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance. Well, it touches on the comment I just made. I mean, if you want to advertise that you sell tires, there's other ways to do it, without being, having a sign. You answer, "size disadvantage versus my competitors". You only have one competitor in town that sells tires and that's Griffin's Sunoco and, and it's the tires now that we're looking at. You, you'll have adequate coverage as far as the gasoline is concerned. The only competitors who sells tires is Griffin and Sons and they don't have any signs. They've only got a sign on their building. They don't have any freestanding signs. So, I, I don't think that making your argument based on your competitors has gotten you any traction either.

Mr. Sheikh - (Inaudible) talking about the gas stations (inaudible). The gas station sign with the Gulf sign is the (inaudible).

Mr. Cooper - Well, if we give you a variance for the gasoline station sign, then we're talking about the sign for the tires, aren't we?

Mr. Sheikh - Yes, (inaudible) only 10 feet, two, two feet by, and then five feet. It's not (inaudible) sign. The sign already (inaudible) Warrensburg Tire House, that's a lot bigger than (inaudible) bigger than this.

Mr. Cooper - Is there any reason he can't leave the sign he's got up now there when he puts, if he gets the Gulf Station sign?

Mr. Belden - He... Well if he were to have this sign...

Mr. Cooper - No, no, no. You know where his sign is now?

Mr. Belden - Yes.

Mr. Cooper - And if we give him a variance to erect the Gulf Station sign, can't he leave that sign exactly where it is? Or does it exceed the sign limits on the property?

Mr. Belden - (Inaudible) give him a variance to the number of signs, that you can have on the property from three to four and he's only permitted for three.

Mr. Cooper - Can he put one on his garage? Affix it to the building?

Mr. Belden - He currently has a sign on the building.

Mr. Cooper - Is he grand-fathered in, in any respect? With regard to his signs?

Mr. Belden - I, I, I, (inaudible) if he was to add this fourth sign... If was to add this Gulf sign here, that would be adding a fourth sign and, and that would be, I guess, creating a non-conformity. So I guess it would up to them. That's why I think it would be up to the Board to either grant this one here or not grant it, or, or to...

Mr. Cooper - The question, Mr. Belden, under the code is, can he accomplish what he wants by some method other than violation of the terms of the ordinance? And I'm asking you, can he maintain the sign that he has, assuming we give him a variance on the Gulf sign, and your answer is..? He would need a variance because it would become the fourth sign?

Mr. Belden - It would become the fourth sign.

Mr. Cooper - Alright. And suppose he decides and elects not to use that sign, but he elects to put a sign on the structure. Does that still count as a sign? He still needs a variance for a fourth sign?

Mr. Belden - Correct.

Mr. Cooper - Okay.

Mr. Morey - Can I say something?

Mr. Cooper - Sure, go ahead.

Mr. Morey - Since he had the existing Getty sign and he's going to replace that with a Gulf sign, why is he in here at all? I mean, wouldn't... If you've got an existing mobile home and you want to replace it with another existing mobile home, you're allowed to do that.

Mr. Belden - Right. I, I've considered that too. I guess, well, for, for one, these signs are going to be larger than that frame was, and then also there's no sign there now. There's a box. There's no, there's no signage there.

Mr. Cooper - How long has it been since there was a gasoline service station sign up there?

Mr. Belden - December or?

Mr. Sheikh - (Inaudible) sign they just took down just (inaudible).

Mr. Belden - They did?

Mr. Sheikh - Yeah. The sign was there.

Mr. Belden - Okay.

Mr. Sheikh - (Inaudible).

Mr. Cooper - Was this the one by the flower bed?

Mr. Belden - No.

Mr. Cooper - Okay.

Mr. Belden - This is the one closer to where the access is to where, what's now the health center parking. That gap between the Pillars and... It used to be a red, red and white, red background with white sign. Right?

Mr. Sheikh - Yeah.

Mr. Belden - Getty sign.

Mr. Cooper - And that's only been gone a month?

Mr. Sheikh - They just took it down.

Mr. Cooper – Okay.

Mr. Sheikh – (Inaudible).

Mr. Cooper – But it was smaller than this proposed Gulf sign. Is that what you're saying, square footage?

Mr. Sheikh – (Inaudible).

(Tape inaudible; people talking at once).

Mr. Cooper – Well, we don't have any provisions in our ordinance for, other than not using the property for the statutory period, a year, right? That he would lose his nonconformity?

Mr. Belden – Let me just look at something. Well, there's... Possibly. In the non-conforming building section, possibly, a section which (inaudible) somebody to replace something on an identical, in any non-conforming building or structure, an identical footprint within 24 months after its removal, as long as it is not added to, enlarged, reconfigured or altered in any manner or in a way which increases the non-conformity. I don't know if, if (inaudible) keep it within that and I don't know if the poles would make a difference as it's now monopole, (inaudible) two poles. I could show you the section of code I'm talking about.

Mr. Cooper – Well, it sounds to me like if he had a 60 square foot sign and, and we're taking that testimony under oath, and he wants to replace it within a month with a 55 square foot sign, I don't think we have much option but to allow him to do it.

Mr. Moffitt – I agree.

Mr. Cooper – So it brings us down to the next one. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Now the only prohibitions we have on signs are that we don't allow any moving, electrical signs in town. Is that right?

Mr. Belden – Correct.

Mr. Cooper – And Jack Toney's sign doesn't move except every 30 seconds, so that was finessed to be a non-moving sign. Is that right?

Mr. Belden – Correct.

Mr. Cooper – The fact that it's illuminated on the inside... How late are you going to stay open, Toby?

Mr. Sheikh – It's going to be from five in the morning until 10 in the night.

Mr. Cooper – You going to turn the sign off then or you going to leave it on all night?

Mr. Sheikh – No, it's going to be off.

Mr. Cooper – See, we've had other situations where there's mixed commercial and residential uses in the district, and the people in the residence like to have dark when they turn out the lights.

Mr. Sheikh – Yeah, we do.

Mr. Cooper – Now there's a residence across the road from this property up on the hill, right?

Mr. Belden – Correct.

Mr. Cooper – If we were to impose a condition that you turn off all the signs on the property when they fold up business for the night, would you accept that condition?

Mr. Sheikh – Yes.

Mr. Cooper – Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessary preclude the granting of an area

variance. You know, you're not an attorney, Toby. You're probably a very successful businessman, so I don't fault you for the answers you've given to these things, but they aren't exactly on point, a lot of 'em. It seems to me that Mr. Morey brought us around to the right way to look at this application and a lot of this stuff you've thrown out about not having views and stuff may be have just been like a businessman does to puff up his product and sell it, and in this case, you were trying to puff up your variance application and sell it. I don't think there's any genuine obstruction of view from any part of Route 9 for your property. And if that was, if your application were to rise and fall on those issues, I, they would fall as far as I'm concerned, but the, the fact that you had a sign there that was larger than the one you want to replace it with, and it was there up until a month ago is a very significant factor. And to me that says more about this application than your attempts at puffery here, okay. So, any questions of the board for the, Toby or, Dave, is it?

Mr. Klochany – Pete.

Mr. Cooper – Pete. I don't know why I couldn't remember your name. I'm sorry. Any questions? Alright, as is the custom of the board, I'll move that we find this to be a Type II unlisted action, or Type II listed action under the State Environmental Quality Review Act. Is there a second to the motion?

Mr. Morey – I'll second.

Mr. Cooper – All those in favor, indicate by saying aye.

Mrs. Winslow – Aye.

Mr. Morey – Aye.

Mr. Moffitt – Aye.

Mr. Cooper – Let the record reflect that the board is unanimous.

RESOLUTION #2014-5

Motion by: James Cooper

Second by: Mark Morey

RESOLVED, to deem application #2014-2 by Tabassum Sheikh, for tax map #211.13-4-10, located at 3775 Main Street, for an area variance, as a Type II listed action under the State Environmental Quality Review Act.

DULY ADOPTED ON THIS 12TH DAY OF JUNE, 2014 BY THE FOLLOWING VOTE:

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

Nays: None

Mr. Cooper – In order to discuss this application, I will move it in the affirmative. Is there a second?

Mr. Moffitt – I'll second.

Mr. Cooper – Mr. Moffitt seconds. I think we should, if we grant the application, we should make sure that the, that our grant doesn't turn out to be broader than we intended. This Gulf sign, you indicate, Pete, is the smallest one that the, this supplier furnishes. Correct?

Mr. Klochany – (Inaudible).

Mr. Cooper – Yeah, and the dimensions are indicated on page 12?

Mr. Klochany – That is correct.

Mr. Cooper – That's of the attachment to the application. 6 feet 1 3/8 inches to the outside of the pole, 5 feet 1 3/8 inches to the inside of the mounting pole. Correct?

Mr. Klochany – That is correct.

Mr. Cooper – And the vertical will be 9 feet 1 3/8 inches as to the sign itself, pretty much. What's the... I see the express part in our, our copies has been scratched out.

Mr. Klochany – Correct. I was just going to point that out to you.

Mr. Cooper – Okay.

Mr. Klochany – We will not have that part. We would like to do a 2 foot Tire Warehouse.

Mr. Cooper – Uh huh.

Mr. Klochany – (Inaudible).

Mr. Cooper – Is that going to be lit too?

Mr. Klochany – Internally.

Mr. Cooper – Okay, I will move that we condition the application and limit the applicant to the sign portrayed in terms of square footage at page 12 of the attachment to the application. Is there a second to the motion?

Mrs. Winslow – I'll second.

Mr. Cooper – Okay. We have a second to the motion. Any discussion on the second for this condition?

Mr. Morey – That's okay with (inaudible) the applicant?

Mr. Cooper – Alright, a vote aye will be to approve the condition, the imposition of the condition on the application. Mr. Moffitt?

Mr. Moffitt – Aye.

Mr. Cooper – Mr. Morey?

Mr. Morey – Aye.

Mr. Cooper – Mrs. Winslow?

Mrs. Winslow – Aye.

Mr. Cooper – And I vote in the affirmative as well.

RESOLUTION #2014-6

Motion by: James Cooper

Second by: Donne Winslow

RESOLVED, to condition application #2014-2 by Tabassum Sheikh, for tax map #211.13-4-10, located at 3775 Main Street, for an area variance, if approved. The condition being that the size of the sign is limited to what is portrayed on "page 12" of attachment to the application.

DULY ADOPTED ON THIS 12TH DAY OF JUNE, 2014 BY THE FOLLOWING VOTE:

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

Nays: None

Mr. Cooper – I move a second condition in the application; that being that the self-lit signs, if the variance is granted, be extinguished at the time the business terminates in the evening at 10 p.m. That would be year-round, Toby.

Mr. Sheikh – Yes, it is.

Mr. Cooper – Is there a second to that?

Mrs. Winslow – I second it.

Mr. Cooper – Mr. Winslow seconds. Discussion? What do you think of that, Mr. Morey?

Mr. Morey – That's fine.

Mr. Cooper – Mr. Moffitt?

Mr. Moffitt – (Inaudible).

Mr. Cooper – Alright. A vote aye will be in favor of imposition of that condition. Mrs. Winslow?

Mrs. Winslow – Aye.

Mr. Cooper – Mr. Morey?

Mr. Morey – Aye.

Mr. Cooper – Mr. Moffitt?

Mr. Moffitt – Aye.

Mr. Cooper – And I vote aye as well.

RESOLUTION #2014-7

Motion by: James Cooper

Second by: Donne Winslow

RESOLVED, to condition application #2014-2 by Tabassum Sheikh, for tax map #211.13-4-10, located at 3775 Main Street, for an area variance, if approved. The condition being that the lit signs are extinguished at 10 p.m. every evening.

DULY ADOPTED ON THIS 12TH DAY OF JUNE, 2014 BY THE FOLLOWING VOTE:

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

Nays: None

Mr. Cooper – Which brings us to the primary application, and that being to grant Toby Sheikh an area variance, allowing him to construct a petroleum sign of 55 square feet and to allow him four signs on the property. Is that right, Mr. Belden?

Mr. Belden – If he was to leave the existing Tire House sign?

Mr. Cooper – You're going to remove that though, aren't you?

Mr. Sheikh – I would remove that.

Mr. Cooper – So you're only going to have three signs?

Mr. Sheikh – Three signs.

Mr. Cooper – Two on the cowl of the gas pumps and this big one.

Mr. Sheikh – One is on the canopy and one is on the building, existing already and only thing is we're going to remove, we're going to combine gas sign and tire sign together to make it, that's what (inaudible).

Mr. Klochany – This is the third.

Mr. Sheikh – This is the third.

Mr. Belden – No, no. The three will be... There's an existing Tire House sign on the building that will remain and there will be one Gulf sign on the canopy...

Mr. Cooper – And this a freestanding sign?

Mr. Belden – There's this sign here and then he also has an existing Tire House sign that will be removed with the granting of this variance.

Mr. Cooper – So he's going to end up with three?

Mr. Belden – Three, yes.

Mr. Cooper – So he doesn't need a variance for four.

Mr. Belden – If he's granted the approval to have the Tire House sign on this sign. If he has the...

Mr. Cooper – Oh I got ya.

Mr. Belden – He'll be taking down the existing.

Mr. Cooper – Yeah, but that, we gave him 55 square feet and that it includes the tire sign, right?

Mr. Belden – Correct. Correct. So then...

Mr. Cooper – So he doesn't need...

Mr. Belden – And he wouldn't need a number or, yeah, he wouldn't need a number.

Mr. Cooper – Alright. Does everybody understand the motion? Essentially the gentleman will be able to put up gasoline pumps with a canopy and hang one Gulf sign on one side, whichever one he chooses. He'll be able to construct his 55 square foot freestanding sign and maintain the sign he has on the building or if he doesn't have one, he can put one up on the building. Does everybody understand that?

Mrs. Winslow – Yes.

Mr. Cooper – Okay. A vote in favor will be to approve the area variance for that purpose. Mrs. Winslow?

Mrs. Winslow – Yes.

Mr. Cooper – Mr. Morey?

Mr. Morey – Yes.

Mr. Cooper – Mr. Moffitt?

Mr. Moffitt – Yes.

Mr. Cooper – And I'll vote in the affirmative as well.

RESOLUTION #2014-8

Motion by: James Cooper
 Second by: Harold Moffitt

RESOLVED, to approve application #2014-2 by Tabassum Sheikh, for tax map #211.13-4-10, located at 3775 Main Street, for an area variance, to allow placement a 55 square foot petroleum sign, with conditions imposed in Resolutions 6 & 7.

DULY ADOPTED ON THIS 12TH DAY OF JUNE, 2014 BY THE FOLLOWING VOTE:

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

Mr. Cooper – Thank you for your patience, Toby. We wish you well. We're always happy to have somebody take a risk in Warrensburg to make some money 'cause it's good for the community, and thank you for showing your faith in the community that way. Okay?

Mr. Sheikh – I, I love this town, I do.

Mr. Cooper – Well, I hope the town reciprocates. So we don't have anything else for you tonight and I don't think we have anything else on the agenda, do we?

Mrs. Corlew – No.

Mr. Cooper – Okay. Then I'll declare this meeting adjourned, and maybe we'll meet next month.

Respectfully,

Patti Corlew
Recording Secretary

Zb0612204

RESOLUTION #2014-5

Motion by: James Cooper
Second by: Mark Morey

RESOLVED, to deem application #2014-2 by Tabassum Sheikh, for tax map #211.13-4-10, located at 3775 Main Street, for an area variance, as a Type II listed action under the State Environmental Quality Review Act.

DULY ADOPTED ON THIS 12TH DAY OF JUNE, 2014 BY THE FOLLOWING VOTE:

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

RESOLUTION #2014-6

Motion by: James Cooper
Second by: Donne Winslow

RESOLVED, to condition application #2014-2 by Tabassum Sheikh, for tax map #211.13-4-10, located at 3775 Main Street, for an area variance, if approved. The condition being that the size of the sign is limited to what is portrayed on "page 12" of attachment to the application.

DULY ADOPTED ON THIS 12TH DAY OF JUNE, 2014 BY THE FOLLOWING VOTE:

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

RESOLUTION #2014-7

Motion by: James Cooper
Second by: Donne Winslow

RESOLVED, to condition application #2014-2 by Tabassum Sheikh, for tax map #211.13-4-10, located at 3775 Main Street, for an area variance, if approved. The condition being that the lit signs are extinguished at 10 p.m. every evening.

DULY ADOPTED ON THIS 12TH DAY OF JUNE, 2014 BY THE FOLLOWING VOTE:

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

RESOLUTION #2014-8

Motion by: James Cooper
Second by: Harold Moffitt

RESOLVED, to approve application #2014-2 by Tabassum Sheikh, for tax map #211.13-4-10, located at 3775 Main Street, for an area variance, to allow placement a 55 square foot petroleum sign, with conditions imposed in Resolutions 6 & 7.

DULY ADOPTED ON THIS 12TH DAY OF JUNE, 2014 BY THE FOLLOWING VOTE:

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

Nays: None