

Minutes
Zoning Board of Appeals
October 12, 2017

Board Members Present: Theresa Coughlin, Alan Hall, Sr., Mark Morey, William Oehler

Board Member Absent: Harold Moffitt

Others Present: Attorney Jeff Meyer, Steve Lofgren, Sandy Studler, Dan Ackley, Bryan Rounds, Ilana Morgan, Randy & Stephanie Viele, Louise Goettsche, Patti Corlew (Zoning Administrator)

Meeting Commenced at 7:00 p.m.

Mr. Morey - This is the October meeting of the Town of Warrensburg Zoning Board of Appeals. Let the record reflect members present are Mr. Oehler, Mr. Hall, Ms. Coughlin and myself. First order of business is approval of the meeting, minutes of meeting of July 13, 2017. Does anyone have any corrections or..?

(Inaudible).

Mr. Morey - I don't either, so let the record reflect that minutes were approved by consensus. At this time, I'll open the public hearing on ZBA 2017-4. Patti, can you tell us how that comes before us?

Mrs. Corlew - Sure. Mr. Lofgren wishes to have an automobile sales and service facility on the property. These uses are not allowed or not permitted in the Hamlet Mixed Use zone. So the applicant is denied, pending your approval.

Mr. Morey - Well, I guess we'll get to that. Does any of the board members have any questions? Before you speak, I don't know if we have to swear attorneys, but it's the custom of this board to swear anyone who's going to give any information to the board, so anyone that would like to speak or will speak, I'll need to, you need to stand and I'll swear you in.

(Mr. Meyer and Mr. Lofgren stood).

Mr. Morey - Do you solemnly swear that the statements you are going give the board are the truth, the whole truth and nothing but the truth?

Mr. Meyer - I do.

Mr. Lofgren - Yes.

Mr. Morey - Okay. Be seated. Okay, who'd like to be first? Go ahead.

Mr. Meyer - Sure. My name is Jeff Meyer. I'm an attorney with Meyer and Fuller down in Lake George. I'm here on behalf of the applicant, Mr. Lofgren and Krystle Automotive. The property in question, just for yourselves, without the benefit of a map, but more so for the public that are here, is the vacant lot in between and behind the post office and next to Oscar's. It actually doesn't have a street address because it is vacant, so the notice, unless you know tax map numbers in the Town on Warrensburg, you're more or less at a disadvantage. But what we're proposing is a use variance to allow for automotive sales and service facilities at this location. The, I guess the ask right now is for the big picture, what my client hopes to develop far into the future. The immediate need, which we're, pending a favorable response from Zoning Board would simply be a display lot similar to what's further up on Main Street. The short term plan is really just parking area, so cars can be shown and the dealership would continue to operate. We recognize that that would require site plan review and everything else before, ya know, a later board. I guess not having been here in a while, I don't want to necessarily recite everything in the application, unless you'd like me to, but you folks know how to read. I don't want to bore you or anyone else. Ya know, essentially, to hit the highlights, what we have here is a large keyhole or a flag lot that's located right on Main Street. This section of Main Street is, I guess in my opinion, a transitional area where a lot of the Main Street and storefronts that you have in the, the earlier more southern reaches of Main Street essentially become non-conforming, more or less as it transitions. Ya know, it has a lot of residential uses that are permitted, which is great for the town, if that's essentially what they want to do, the problem with this large lot is it prevents any sort of the use of the area. Building lots in Warrensburg are in the thirty to fifty thousand dollar range for residential problems, my client paid ten times that based on anticipated commercial uses. The narrow road frontage essentially prevents the development of a lot of the rear if you locate something in the front. So the, the use that's proposed is actually in keeping with what else is available on Main Street, what else is around on Main Street and is truly the only way that the applicant can receive any sort of return for his property. It fits in with the character of the community. There aren't any negatives associated with it. Everything will

be controlled on site. Everything will go through site plan approval. So based on that and the information provided in the application, including the broker's opinion as to the (inaudible) of value and the hardship. I'm happy to answer any questions the board may have.

Mr. Morey - Anyone have any questions at this time?

Mr. Hall - Not at this present time.

Mr. Morey - Okay, thank you.

Mr. Meyer - You're welcome.

Mrs. Corlew - Mark, do you want to open the public hearing?

Mr. Morey - I did.

Mrs. Corlew - You did?

Mr. Morey - Yep.

Mrs. Corlew - Oh, I missed it.

Mr. Morey - I believe so, yeah. That's the first thing I said.

Mrs. Corlew - Okay.

Mr. Morey - I'm getting ahead now. I'm not... I've learned my lesson. Okay. For the benefit of the new members and, a use variance is intentionally hard to achieve because it in effect changes the master plan that, but on the reverse side of that, this board is here is to allow for the overlay of, when the overlay zoning plan on the community, there's always lots and other places that don't conform and really don't fit, so we're the relief mechanism for that. But with a use variance, the courts have held, unlike the area variance, we have to be satisfied, the majority of us have to be satisfied that all four of the conditions have been met. It can't just be a majority of the conditions. So it's up to the applicants to convince the majority of the board that they've met the conditions. So if there's no questions by anyone, we'll proceed to go down through the application. I'll make a motion that we approve the, in the affirmative for ZBA, for the application ZBA 2017-4. Is there a second?

Mr. Oehler - I'll second it.

Mr. Morey - Okay. We'll proceed to go down through the application and discuss the conditions. Patti, did this go to the County?

Mrs. Corlew - Yes, it did. There was no county impact.

Mr. Morey - No county impact. So at least you don't need a super-majority. Anytime any board members or any of the audience would like to speak, as long as you've been sworn... If you haven't, I'll swear you at the time. Feel free to raise your hand. Do you solemnly swear that the statements you are

going to give this board are the truth, the whole truth and nothing but the truth?

Mr. Rounds - Yes, I do.

Mr. Morey - Okay.

Mr. Rounds - Okay, I'm Bryan Rounds, and I'm not really here on my councilman position or like that, but I just wanted to make you all aware that I personally sat in on these meetings when we were, redeveloped the master plan, and this whole zoning thing is supposed to be a living, working document, so people are fallible, ya know, so we sat around in this room on several meetings and tried to address, update this so you folks didn't deal with so many of these use variances and things coming before you. But at the time that we're do, going through those meetings, we were right in the middle of that where Price Chopper or the developer over there was talking about a grocery store and this property that these people have bought was proposed to be a shopping center of some sort. So I think as a, as a group when we were working on this, we kind of had blinders on and mistakenly kind of zoned it.. We were taking all of these avenues to make sure we did proper in case, we really wanted a grocery there, is what we thought was going to happen. And if one was, a good grocery store was coming to Warrensburg, we wanted it to be here and not across the bridge if we could. So we tried to, we tried to bend to our will and make it fit that way. We didn't mean to take away the fact that it's still a Main Street property and it's smack dab in the middle of automobile related business up and down through there, which, I'm just saying, it's my personal opinion, I think that's a perfect fit for the property and, and he wrote a fairly large check for the property, I think he ought to be able to do what he wants with it. Just, that's my personal opinion. That's what happened at those meetings, and that's why you're looking at it being zoned as something that doesn't really fit what all of his neighbors, what's always been there. I just wanted you to be aware of that. 'K folks?

Mr. Morey - Yep. Thank you. Anyone have any comments on that or thoughts? Then we'll proceed to the, going through the application. Question number one, under the applicable zoning regulations, the applicant cannot realize a reasonable return provided that lack of return is substantial as demonstrated by competent financial evidence: You answer, "yes, the applicant cannot realize a reasonable return on the property under the applicable zoning regulations. Enclosed with this application is a formal opinion letter from Ms. Julie Snyder, licensed real

estate professional with Realty USA. It is her professional opinion that based upon all the permissible uses of the zone and the limitations of the property, Mr. Lofgren would sustain an economic hardship, which would result in economic losses. Her opinion is clear that the property is ill-suited for dwelling purposes, as well the permissible commercial uses afforded this district be it retail, offices or restaurants. As the selling broker and licensed professional, Ms. Snyder, is familiar with the property and the ideal person to opine on the possible uses and economic hardships that result from the current zoning. Another indication of the economic limitations of the property is the fact that this property has sat vacant for decades. This is not true of other lots along Main Street as properties have been utilized, bought and sold uses changing over time, the same cannot be said for this property. The fact alone confirms the broker's opinion. This is not a question of what is a reasonable return. The proof that has been submitted shows that absent the granting of the use variance, Mr. Lofgren stands to incur a large loss and a financial hardship". The property sat vacant before you bought it and what do you know about that? I mean, Ms. Snyder isn't here, so did she handle that for a number of years or was that..? It was for sale, is what I'm saying. It was on the market for a number of years?

Mr. Lofgren - I believe it was, yeah. I think there was another deal on the property prior to that with..

Mr. Morey - Price Chopper.

Mr. Lofgren - Yeah, a grocery chain, right. I didn't know which one it was, but yeah. It's been vacant for the 10 years I've been in town. I don't remember anything being there previously.

Mr. Morey - Well, when I was a kid, which was a little while ago, there was a restaurant there and what we call now a bed and breakfast, I guess. It was the Chalet Swiss, but that burned and then it did set until the post office, I assume, purchased that. And why they sold out a piece in the front that really crippled the piece in the back is anybody's guess, but maybe the person that owns the post office didn't want the whole property. I don't know. Can you add anything to that, Alan?

Mr. Hall - Other than the fact that I was on the fire hose when that burnt, I know the place you're talking about.

Mr. Oehler - I have a question. Go ahead, Alan.

Mr. Hall - I'm not sure that the post office bought the whole section. I think somebody else bought the whole section and then the post office bought their section off from that.

Mrs. Corlew - The post office doesn't actually own it. They lease it.

Mr. Hall - They lease it, yes.

Mrs. Corlew - But that was all one piece.

Mr. Hall - But you don't want to tell the Federal Government they don't own it. It's like there was supposed be a road all the way around that post office. That was part of the conditions of when it went in, but that chain of command says town makes the law, county makes the law, state makes the law, federal government says, thumbs its nose at everything and said you'll do it my way. And the road didn't go all the way around. So I, I realize it's a lease, long-term lease, 100 year lease or something like that (inaudible). And where it... The rest of it, I don't know who owns it.

Mrs. Corlew - I can't remember right now, but...

Mr. Morey - Okay. Mr. Oehler?

Mr. Oehler - I have a question. Before you purchased this property, did your real estate agent come to the town and find out anything about the zoning regulations for that piece of property?

Mr. Lofgren - We've...

Mr. Meyer - She did look into it and the response that she filtered back to everyone else was, it's on Main Street; it's commercial property. You can use it for commercial uses. I don't believe that she drilled into this specific use.

Mr. Oehler - So she didn't come and ask Patti per se or Chris who was here because if she would've came here, she would've saw the use variance, what that's property's used for and there's quite a few things in there that it could be used for besides, obviously not what you want to use it for, but for commercial stuff. That's... The only question is, that's what I'm asking you, is that nobody came and asked anybody anything before you spent that kind of money on a piece of property where you could use it?

Mr. Lofgren - I think the assumption was that it was commercial.

Mr. Oehler - That's a big assumption.

Mr. Meyer - My understanding was she didn't drill that into this specific use (inaudible).

Mr. Oehler - Sure.

Ms. Coughlin - Especially being a business owner, ya know. That is a very big assumption.

Mr. Oehler - It's a large amount of money to spend on something without getting the details and saying yes I can do that; no, I

can't do that or what do I have to do to change what it is. I'm not saying that's, nothing to do with that. I just...

Mr. Lofgren - I understand.

Mr. Oehler - You know what I'm saying.

Ms. Coughlin - But at the time of closing any property, your realtor and your attorney are supposed to do due diligent searches and to inform you of all of this information prior to. So...

Mr. Morey - I think we're getting ahead of ourselves. Maybe that would be question 4, but back to the question of whether we can't have a reasonable return for any use permitted in the zone, your letter here from Julie Snyder lists the property value of what lots are going for and really the problems that might be associated with some of the other uses and probably the, the most economically viable use would be multi-family dwelling, but I'm not sure if that could go in there. Could it, Patti, if they wanted to put say a...

Mr. Oehler - Yes, they could.

Mr. Morey - ...senior housing center or something like that?

Mr. Oehler - Yeah, right here.

Mr. Morey - I saw, I read that.

Mr. Oehler - There's, there's...

(Tape inaudible).

Mr. Oehler - There's senior housing right here. (Inaudible). You can actually put a movie theater (inaudible) movie theater here, but...

Mr. Morey - Right. Well, that's the point. In, in Warrensburg and in that area, and the fact that that's set for so long unused, apparently there wasn't a lot of interest in... It would seem if that was viable, that someone would've done that, especially the housing part of it.

Mr. Oehler - Right.

Mr. Morey - Mr. Schermerhorn would've probably taken a look at that.

Mr. Oehler - Not with Warrensburg taxes.

Mr. Morey - The courts have held that the first, the economic hardship is really the big hurdle and that that lot, as it sits, it, that this use will, it's not the highest and best use, she says, because we don't, we can't concern ourselves really with that, but whether or not that piece of property, no matter what someone paid for it, with the zoning that's there, with that large piece for that, for some use that would give a reasonable economic return. That's the way I read it. Other board members may have different opinions. No other questions? I should

memorize this thing. Do you solemnly swear that the statements you are going to give the board are the truth, the whole truth and nothing but the truth?

Mrs. Viele - Yes, I do.

Mr. Morey - Okay. Please state your name.

Mrs. Viele - I'm Stephanie Viele, owner with my husband Randy of Viele's Automotive. We do business with Mr. Lofgren and my... I guess my concern is we have in the small section of Warrensburg, I mean within 3 miles, 8 garages, repair shops. They're concerned about his economic growth as far as that goes with that piece of property. I would also be concerned about the economic growth of the current businesses that are there and storefronts that pay taxes and, ya know, are successful businesses and if he builds his dealership here, what, what's that going to do with the dealership up the road? Is it going to leave that empty and you're going to end up with 9 garages in town? Ya know, in this small amount of area... Ya know, I don't want any... I'm not trying to stir the pot, but me looking at it, I say there's 8 garages already. I, I don't really understand why we need one more garage. As we sit there and watch business go through and everything, I know at one point, Oscar's had said they wanted to put in a pancake house down there and we thought that would be great because ya know, they're using their products and it's, we could use another type of restaurant like that. But that would be my concern, his economic growth and then the economic growth of other businesses that are already established in that area is all I would be concerned with.

Mr. Morey - Unfortunately, the answer to that is that that's more a problem for the planning board. We can't consider that other, your statement that there's already 8 garages, which pretty much confirms that it's not going to make a lot of change in the character of the neighborhood. So I'm sorry, I mean, we, but we don't, we have to go through the nuts and bolts of whether it passes the questions that are before us and then if it does, he'll have to go to the Planning Board and that would be your place to concern yourself with what they can do to ease the situation. Anyone else? Okay. I should have had you go through this. You said you didn't want to bore us.

Mr. Meyer - I'd be happy to if you want me to.

Mr. Morey - We're... Okay, question number 2, the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood. You answer, "yes, the property is unique and does

not apply to a substantial portion of the district or neighborhood. In addition to the property, there is only one other lot fronting on Main Street that is over three acres in size. Despite being 3.85 acres in area, it only has approximately 170 feet in road frontage, having a shape similar to a key hold and preventing any possibility for subdividing the lot. These limited dimensions make the property poorly suited for the scheduled uses of the HMU zone. The result being a reduction in property value that prevents an owner from realizing any return on the property. Developing the front of the lot would necessitate abandoning the rear of the lot where the bulk of the acreage is located. Moreover, developing the rear of the lot in a manner permitted under the zone would result in a loss as it would not be the highest and best use for the property and underutilizes the benefits of a property of this size to both the property owner and the larger community. Due to its shape and size, there is simply no other property in the HMU zone that is similarly restrained by the zoning. Therefore, the hardship incurred by the property owner does not apply to the remaining district or neighborhood". Well, I more or less agree with that myself. It is an oddly shaped lot and I still don't understand why they sold out the road frontage. (Inaudible) the post office (inaudible). Not the post office, but the person that wanted to develop it, to take the entire property, but that's, that's what we've got and so this lot sets there and if, if this is... It is unique in the fact that it's about the only lot that size up through there that doesn't have any frontage and is still usable hopefully for something. You got a question, Alan?

Mr. Hall - Yeah, the next street up, the one that Oscar's is on. That is all a commercial street, as I understand it. Joe Barlow was surprised to find out he lived in a commercial district after they voted this stuff in. Is there any way they can buy access to that property from a commercial road? Have you attempted to buy access to that keyhole piece of property from a commercial road, Raymond Lane?

Mr. Meyer - No, we haven't addressed cutting into the Raymond Lane. As of right now, it would cut right through the center of the parking lot. So it wasn't, it wasn't contemplated, I guess, because of that. And the fact that it has frontage on Main Street, there wouldn't be a need.

Mr. Morey - I know originally that that zone was a number of feet. I think it was 300 feet from center line of Route 9. Did they change that, do you know, Bryan. How they did that or..?

Mr. Rounds - When this all shook out, they changed to this, was it Hamlet..?

Mr. Oehler - Hamlet Mixed Use.

Mr. Morey - Mixed Use, yeah.

Mr. Rounds - Yeah. Somehow or another that, like I said, we were concentrating on the shopping center. We thought that's what was it was going to be, but I'm not sure where it changed. And like the, the Galusha property or what's now Robbie Griffin's up there, where it used to be Rodney's Restaurant and all that, is there a break right there, did the line get moved. (Inaudible). ..dont' know what happened exactly, ya know.

Mr. Meyer - It's... Looking at the map, it appears the southern or western side of Main Street has the 300 foot distance, but this side of the property just extends. It doesn't have that limitation.

Mr. Morey - Well, it probably wouldn't be... It'd probably be quite a task to ask the Quintal's to give you more road frontage along Raymond Lane, considering that I believe that he just bought Joe Barlow's property.

Mr. Oehler - Yes, he did.

Mr. Morey - So it's an oddly... You're saying that it's an uniquely shaped lot and that it's, that's why it does... It's not a... It's unique to the zone. Not similar to the other properties, correct?

Mr. Meyer - Correct.

Mr. Oehler - I just come back to, again, the property, for the uses that are on the paper that I got from Patti, there's several uses that that property can be used for, to use the back of it. Not saying that it's not good for a car sale, car lot or business, but there is other uses for that property. Nobody stepped up to buy anything; nobody's ya know, put anything in there, so I'm just saying that that's the same as... This question is more or less the same as the last one, was saying that the property can be, from what I'm looking at the paperwork that I have, there's different uses for that property. Even though it is a keyhole, you can take access in and use the backside of it 'cause there is 3.85 acres there. It's a very large piece of property on Main Street.

Mr. Morey - Well, this question refers to that the, the uniqueness of the property.

Mr. Oehler - Hm hm.

Mr. Morey - And the, the first question about whether or not there's uses are viable, I mean, no one, like I said, no one has, no one has stepped up, but that's doesn't...

Mr. Oehler - Yep.

Mr. Morey - Any other points or...? We'll go to number 3, the requested variance, if granted, will not alter the essential character of the neighborhood. You answer, 'yes, the requested variance will not alter the essential character of the neighborhood. Within one thousand feet of the property there are numerous automotive repair and sale facilities. Similarly, the southern portion of Main Street in Warrensburg also has multiple automotive repair and sale facilities, chiefly Warren Ford. Many of these facilities have been grandfathered as pre-existing non-conforming uses, but remain in business. This neighborhood, which can be characterized as north end of Main Street consists of larger lots with more intensive commercial uses like automotive repair facilities, fuel distribution facilities, DOT garages and the like. The automotive sale and service industry is one that benefits competition and complementary facilities. It is a benefit to the community and businesses to have these similar facilities located in reasonably close proximity. This area is not the core of the town that was contemplated in the Comprehensive Plan. The essential character of the neighborhood in this area is not the small storefronts along Main Street, which is the goal of the hamlet areas. That area is well" north "of the property and will not be" affected... Well, "south of the property and will not be impacted or suffer any adverse consequence from the proposed use variance".

Mr. Oehler - I agree 100%.

Mr. Morey - Okay.

Mr. Oehler - 100%.

Mr. Morey - Mr. Hall?

Mr. Hall - I agree.

Mr. Morey - I think that fact speaks for itself. That was the easiest one to answer.

Mr. Oehler - That was an easy one.

Mr. Morey - Okay, we'll go to number 4. The alleged hardship has not been self-created. "It is important to remember that this one factor is not determinative. My client was unaware that this use was not permissible at the time of the purchase due to the prevalence of automobile sales and service facilities in the area. While ignorance may not be an excuse, the economic hardship that will result, and mitigating factors discussed previously, more than ameliorate any possible harm or adverse impacts that could be contemplated by granting the use variance. The property is an irregularly shaped lot that is best suited

for the proposed use. It is located in an area with similar businesses, the majority of which are nonconforming. The proposed use will be an asset to the community as it continues to grow and foster new businesses". Well I'd have to... You're, when you say this one factor is not determined, you're saying that because of the other fact, no matter who owned it or what they paid for it, it's still, the hardship is created by the shape and location of the lot, not the...

Mr. Meyer - Current...

Mr. Morey - ...not the fact that someone made you pay more than they should have. They can't use it for what they want.

Mr. Meyer - Right. I guess, as folks were discussing earlier, the, the hardship was created when, ya know, the original owner subdivided the parcel and secured a long-term lease with the Federal Government, which is about a good a deal as you can ever get for a piece of property. It's a secure and steady income. My client bought the remainder of the lots. It was based on what was around and based on what was the intended uses and knowing it was commercial, ya know, the hardship was created. And it's one that's going to be present, essentially regardless of what the price that was paid for it. The price that was paid for it only exacerbates the hardship and ya know, further supports that, ya know, there is, there just isn't going to be an economic return on this property more or less at any price but certainly not at the price that was paid, which was an arms less transaction that was negotiated through real estate brokers.

Mr. Oehler - Patti, I've got a question for you. When the lot that Jerry bought... 'Cause it was Julian's son that sold that property. Am I correct? Julian's the one that owned it all? And he subdivided... When Jerry bought that, did they subdivide that or was that already split up? Was that already a lot?

Mrs. Corlew - That piece was already a lot.

Mr. Oehler - So Jerry's... Where Jerry owns now, that parking lot that he has...

Mrs. Corlew - That was already...

Mr. Oehler - That was a piece there?

Mrs. Corlew - That wasn't part of it.

Mr. Oehler - That wasn't part of it.

Mrs. Corlew - No.

Mr. Oehler - Are you sure?

Mr. Morey - Originally that did go to Raymond Lane.

Mr. Oehler - Yeah, that prop... I know that, it went to Raymond Lane.

Mrs. Corlew - Hm hm.

Mr. Oehler - And I think Julian's son is the one that subdivided that and made that lot line adjustment for Jerry. If I, if I remember it correctly. What it was... I didn't know if the town approved that. Did the town approve that subdivision? Putting those two, ya know, the lot the way it is?

Mrs. Corlew - (Inaudible).

Mr. Oehler - Okay.

Mrs. Corlew - But I don't, I don't think that was part of the post office property, is what I'm saying.

Mr. Oehler - I know that Julian owns, Julian owned the post office.

Mrs. Corlew - Yes.

Mr. Oehler - And now his son owns it.

Mrs. Corlew - But I don't, I don't think that property that you're talking about was part of this one.

Mr. Oehler - I thought that was all part of the Swiss Chalet.

Mr. Morey - It was, at one time.

Mr. Oehler - It was.

Mrs. Corlew - It was at one time, but not in recent history.

Mr. Oehler - Right.

Mr. Morey - What's, what are you getting at?

Mr. Oehler - I just was curious if they, the town was aware of what they were doing when they were subdividing this, letting them subdivide the property, ya know, making it so it's a bottleneck more or less in that one, that one lot there.

(Tape inaudible).

Mr. Morey - I don't know about the new code, but there was a provision in there for a simple division of land. That you didn't have to go through all the subdivision...

Mrs. Corlew - That's true.

Mr. Morey - ...regulations. And that's probably what...

Mr. Oehler - So the footage wasn't anything on Main Street.

Mrs. Corlew - But this lot, that you're talking about, wasn't involved with it, whether it was a subdivision or a land partition, that was not involved with that split.

Mr. Oehler - Okay.

Mrs. Corlew - For sure.

Mr. Morey - Anyone else have any questions or anything to add about any portion of this? One of the purposes of these public meetings are that it gets people in that maybe will refute what's being said or add to it, and feel free to speak up or... We'll be happy to listen to everybody.

Mr. Hall - Question for Dan. Wasn't it at one time your lot was considered for a purchase to combine all this together?

Mr. Ackley - Yep. No, that was for Price Chopper, yes.

Mr. Hall - Yeah, for Price... That was... That never did happen.

Mr. Morey - Just as a... Just as a point of interest, if it had happened, would that have required a variance?

Mrs. Corlew - This parcel?

Mr. Morey - Yeah.

Mrs. Corlew - I don't know because... I don't think so.

Mr. Morey - Well, I guess we dodged that bullet anyway.

Mrs. Corlew - I don't have the map right in front of me (inaudible). I don't think that would've required a variance (inaudible).

Mrs. Goettsche - I would like to just, just make a comment. My name is Goettsche.

Mr. Morey - Did I swear you before?

Mr. Oehler - No.

Mrs. Goettsche - No.

Mr. Morey - Good thing somebody's keeping track of this.

Mrs. Goettsche - I own the bed and breakfast across the street and...

Mr. Morey - Just wait a minute please. Do you solemnly swear... Raise your right hand. Do you solemnly swear that the statements you are going to give the board are the truth, the whole truth and nothing but the truth?

Mrs. Goettsche - Sure. Yes.

Mr. Morey - Thank you.

Mrs. Goettsche - I own the bed and breakfast across the street, so my concern is how that will impact my business, and the same with Viele's. I mean, we've been here a long time; we're part of the town and I'm just concerned with the future plans, ya know, how far do they plan to expand. Do they plan to buy his property? I'm just, I'm just concerned about how that will impact my business and I'm just hoping you'll take that into account. Maybe it's a great thing; I'm not saying it isn't. But I just wanted you to take that into consideration.

Mr. Morey - To do any expansion, they would need more, another use variance, barring a change in the zoning by the Town Board. So your property is down the, is south of there, right?

Mrs. Goettsche - I'm directly diagonal south.

Mr. Morey - Diagonal, yeah.

Mrs. Goettsche - Yeah. Right across.

(Tape inaudible).

Mr. Morey - Thank you.

Mr. Hall - Which property's this?

Mr. Oehler - The Cornerstone.

Mrs. Corlew - Cornerstone.

Mr. Morey - Right along the... Cornerstone Victorian.

Mrs. Goettsche - Cornerstone...

Mr. Hall - Okay.

Mr. Goettsche - Cornstone Victorian.

Mr. Hall - When you said across the street, I was, which street?

Mr. Goettsche - Main Street.

Mr. Hall - That helps. Thank you.

Mr. Morey - Go ahead. Yes. You need to be sworn. Raise your right hand. Do you solemnly swear that the statements you are going to give the Board are the truth, the whole truth and nothing but the truth?

Mr. Studler - Yes.

Mr. Morey - Okay.

Mr. Studley - My name's Sandy Studler. I, I work for Mr. Lofgren. I've been there five years, actually five years tomorrow. I've only been in Warrensburg five years too. I know a lot of the people in Warrensburg, but Warrensburg... I grew up in Hudson Falls. I remember when Hudson Falls was a nice town. Warrensburg's still a nice town. Hudson Falls is still a nice town. Warrensburg like all the other towns, you want to stay small; you want to stay friendly. The one thing I've noticed working at Krystal is the neighborhood feeling everybody gets. Our customers are from, actually Warren Ford employees, New Way Lunch, the pizza place across the street, the pizza place down the road, the post office, Oscar's. We do do a lot of business with Viele's. We do a lot of business. I do six alignments a week for Smith's garage. I just think it would be down the road, like they said far down the road when it is developed, it's the neighborhood feeling. It's taking care of your neighbors. It's taking care of the town, which Steven does. A lot of money is donated to the school. He wants to keep it small-town. We don't want a huge car dealership, but this is where he invested his money 'cause he's part of Warrensburg. He wants to be part of Warrensburg. We want to be part of Warrensburg. I employ 30 people; all live local between Johns, Johnstown, Johnsburg, Brant Lake. A lot of my employees live in town. Three live on this road. Nobody wants anything huge. I know... I'm friends with Jerry Quintal. I know Jerry Quintal; I know Joq. They're begging for extra business. Everybody wants to keep business in town. That's all we're trying to do,

is to be a good neighbor and keep everything in town. So that's all I have to say.

Mr. Morey - Thank you. Anyone else? We've got almost everybody sworn now, so... Okay. We'll go down through the short environmental assessment form. And Patti informs me there's a couple ways to do it. This part is filled out by the applicant and it's, I guess if... When you go down through, I think we can go to the, just the questions really... We'll look over the ones that there was a yes response to. If anyone else is against that, we'll go through the whole thing. I mean, you've all read this. Am I correct?

Mr. Hall - Correct.

Mr. Morey - If anyone has any questions or anything they noticed we probably skipped over, then make sure you bring that up. That's proper, that's proper (inaudible). Our Planning Board does that, you told me.

Mrs. Corlew - Yeah. She does (inaudible).

Mr. Morey - Okay. Question number 6, is the proposed action consistent with the predominant character of the existing or natural landscape? And you put, yes, it is consistent. I suppose that might have been the way to answer the question or ask the question. Did you mean that that, would, that it would fit in with the neighborhood or it wasn't going to require a lot of excavation or anything like that? I think we'll go down through the whole thing. That way we'll address anything. Okay, we're going back to question number 1, does the proposed action only involve the legislative adoption of the plan, local law, ordinance, administrative rule or regulation? You answer, no. I guess that's right. Any, anybody that disagrees with their answer, speak up, any of the board members. Does the proposed action require a permit, approval or funding from any governmental agency? You answer, no. I'm not too sure on that. Are we a governmental agency? Or if they're assuming that once it's constructed or once, if it was approved, then you wouldn't need one?

Mr. Oehler - Right.

Mr. Morey - Okay.

Mr. Meyer - It obviously would be your approval (inaudible) Planning Board (inaudible).

Mr. Oehler - Yep.

Mr. Meyer - My interpretation of the question is there's no other outside agencies or funding sources.

Mr. Morey - Okay. We don't get a lot of these use variances and so we, we'll learn right along with the rest of 'em. And they

don't go over it that good at the training classes. Okay. Question number 3, and it's all been filled in. Question 4, the land uses adjoining and near the proposed action. You put urban and commercial. There's no argument with that.

Mr. Oehler - No.

Mr. Morey - Number 5, the proposed action, permitted use under the zoning regulations, you say no and that's, that's why you're here, so that's fine. Consistent with the adopted comprehensive plan, you answer, yes. It may be consistent with the area, but you wouldn't be here if it wasn't for the, it wasn't inconsistent with the plan. We talked about number 6. Number 7, in the, is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? No. Will the proposed action result in a substantial increase in traffic above present levels. You answer no. Are public transportation services available at or near the site of the proposed action? You answer, yes, but I'll tell you, it's sporadic. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action? You answer yes. Anybody got any questions on that?

Mr. Oehler - No.

Mr. Hall - I guess Main Street qualifies as a bike route.

Mr. Oehler - (Inaudible) sidewalks.

Mr. Hall - The shoulder.

Mr. Morey - Does the proposed action meet or exceed the State energy code requirements? You answer yes. I don't... I would need to...

Mr. Meyer - (Inaudible).

Mr. Morey - Okay. Did you hear him?

Mr. Hall - As a display lot, it doesn't. Once it becomes a garage and service area, you're going to be using our sewer, our water, so I'm not sure just how to agree with this yet. This seems to be a two part application.

Mr. Morey - Well, I think we should view it as a, ending up with the highest use that they asked for and if they do less, then that's their decision. Is that the way you feel about it?

Mr. Oehler - Yes.

Mr. Morey - Okay. And I'm not sure about State energy code requirements? Mr. Oehler, do you got any experience with that?

Mr. Oehler - No, not really. Not on that one.

Mr. Morey - Well, I guess you'll have to comply with whatever...

Mr. Meyer - Yeah, I mean...

Mr. Morey - ...thresholds you cross.

Mr. Meyer - (Inaudible) is going to be built to code.

Mr. Oehler - It has to be. Warren County is going to be the one to inspect it. It's going to be up to code. Nothing's going to... They won't slip anything by, those guys.

Mr. Morey - Will the proposed action connect to an existing public/private water supply? You say no. I would... You going to have a well there? I mean, you got...

Mr. Meyer - The proposed action that this is referencing is the use. It's the not the actual development. That would be yes when the site plan (inaudible).

Mr. Morey - To the Planning Board, yes. I believe to expand that from a display, they would need to go to the Planning Board again?

Mrs. Corlew - Yes.

Mr. Morey - Yes, okay.

Mr. Hall - So that's the correct answer then.

Mr. Morey - Will the proposed action connect to existing wastewater utilities? You answer no. There will no bathroom facilities, nothing?

Mr. Meyer - Same reason as before.

Mr. Morey - Does the site contain a structure that is listed on either the State or National Register of Historic Places? You say no. Is the proposed action located in an archeological sensitive area? No. Does any portion of the site... This is number 12. That was 12. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a state, or federal, state or local agency? You say no. They show a little pond there or impoundment of water in the corner, but I guess it's not big enough to be regulated. Would the proposed action physically alter or encroach into any existing wetland or waterbody? You say no. 14, identify the typical habitat types that occur on, or are likely to be found on the project site. You haven't checked any. I know there's some forest, grasslands and urban, I guess. Number 15, does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered. You answer no. Is the project site located in the 100 year flood plain. You answer no. Will the proposed action create storm water discharge, either from point or non-point sources? If yes, will storm water discharges flow to adjacent properties? You answer no. B, will be storm water discharges be directed to established conveyance systems (runoff and storm drains)? You answer no. The surface that you were planning on

putting in there is permeable? It's crushed stone or what are you going to have for a display lot?

Mr. Meyer - It hasn't been decided but all storm water's going to dealt with directly right as it runs.

Mr. Oehler - So do you know if you're going to blacktop this? If it's going to be blacktop, is there going to be something for water/oil separation for any cars that are sitting there. I mean, I don't know if that applies to us or the Planning Board.

Mr. Morey - Planning Board.

Mr. Oehler - Okay. Alright, just forget that.

Mr. Morey - Does the proposed action... This is number 18. ...include construction of other, or other activities that will result in the impoundment of water or other liquids (example, retention pond, waste lagoon, dam)? You answer no. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste facility? The answer is no. Number 20, has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? You answer no. Any one of the board members have anything to add to that or any of the, any information the audience can give us? Anything different than what's been stated? So we'll go down through our part of this and fill it out.

Mr. Oehler - Do you have a pen I can write with?

Mr. Morey - Okay, so impact statement, the lead agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions, the reviewer should be guided by the concept "have my responses been reasonable considering the scale and context of the proposed action? Number 1, will the proposed action create a material conflict with an adopted land use or zoning regulations? Well, it, it does (inaudible). The question is whether the impact is moderate or large or a small impact. I guess it gets down to where you draw the line or..

Mr. Oehler - How big the lot is.

Mr. Morey - Probably the what?

Mr. Oehler - The lot, the size of the lot.

Mr. Morey - Well, I think it's more... I, I'm looking at it more on the lines of, as they stated how far is this going to creep out into what they consider small shops in the community area of the town and judging by the lots that are south of there and the

composition type of use, I don't know. I don't see where there's any room for that to...

(Tape inaudible).

Mr. Morey - ...another dealership (inaudible). You say a small impact?

Mr. Hall - Yes. That's what I say.

Mr. Morey - Theresa?

Ms. Coughlin - I was thinking moderate to large.

Mr. Morey - Mr. Oehler?

Mr. Oehler - I was thinking the same thing, moderate to large.

Mr. Morey - Okay, so we'll go moderate to large 'cause it does impact...

Mr. Hall - Okay.

Mr. Morey - ...zoning regulations.

Mr. Meyer - Can I interject quickly.

Mr. Morey - Yes.

Mr. Meyer - The, the form (inaudible) and I guess the, my understanding of the question when its asking when it's based on the DEC guidance is, ya know, you're correct in that your reading it as it's written, but with the question it hopes to answer, the environmental impacts that are associated with this change, so by saying moderate to large, you're saying that there's going to be a large adverse environmental impact that's associated with permitting this use.

Mr. Morey - Yeah, I think you're right. I, it's the environmental assessment form. Not the... I don't whether it's putting a big impact on our code. Thank you for that. That... We're going to... We're at a tie now. Two to two and that's a non...

Mr. Rounds - Can I expand on that part?

Mr. Morey - Yes.

Mr. Rounds - One thing. Just for example. The Town Board, we reviewed the SEQRA for the new Stewart's which in that very same question, we came up with the fact that it was a small... We called it small. We're talking about a business with fuel tanks and gas tanks in the ground and, and a distribution center like that, and we viewed that and rightfully so, I guess, as a small use, a small impact on the environmental form. I, a car lot? And I keep...

Mr. Morey - that would be much smaller than...

(Tape inaudible; people speaking at once).

Mr. Rounds - ...shopping center would a huge parking lot with probably 24 hour lights and, and 24 hour service, so we kind of missed the boat on that.

Mr. Morey - I agree with that. I got off on the wrong...

Mr. Oehler - It would be a small impact then.

Mr. Morey - Okay. We'll try to do better. Thank you. Will the proposed action result in a change in the use or intensity of use of the land. I would say no. Will the proposed action impair the character or quality of the existing community? This is keeping in mind that this is environmental.

Mr. Hall - Hm hm.

Mr. Morey - So, I think no. Mr. Oehler?

Mr. Oehler - No.

Mr. Morey - Alan?

Mr. Hall - No.

Mr. Morey - Theresa?

Ms. Coughlin - No.

Mr. Morey - Number 4... Let's just... I'll just tell you what I think and if you object, you can tell me. That might be quicker, so we can... Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area? No. Number 5, will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? No. Will the proposed action cause an increase in the use of area and it fails to incorporate reasonably available energy conservation... ...if it fails to... They don't say if... They said it, but anyway... ...fails to reasonably available energy conservation or renewable energy opportunities. No. Anybody that didn't follow that, I'll read it again. They stuck that word in there and it doesn't really fit. Number 7, will the proposed action impact existing public/private water supplies? No.

Mr. Hall - (Inaudible).

Mr. Morey - Well, I think if they, the impact they meant, would it contaminate existing public/private...

Mr. Oehler - It's environmental.

Mr. Morey - Yeah, it's environmental. There's no... There's... There shouldn't be an impact on the water system. Will the proposed action impact existing public/private waste water treatment utilities? No. Will the proposed action... That's number 8. ...impair the character or quality of important historic, archaeological, architectural or aesthetic resources? No. Will the proposed action result in an adverse change to natural resources (for example wetlands, waterbodies, groundwater, air quality, flora or fauna)? No. Will the proposed action result in an increase in the potential for

erosion, flooding or drainage problems. No. I think the Planning Board regulators...

Mr. Oehler - Hm hm.

Mr. Morey - ...will be sure that they won't happen.

Mr. Oehler - Right.

Mr. Morey - Number 11, will the proposed action create a hazard to environmental resources or human health? No. Okay. The lead agency is responsible for the completion of Part 2. Every question in Part II that was answered moderate to large impact may occur or if there was a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3.

Mrs. Corlew - So now is your time to make the motion.

Mr. Morey - Yeah. I don't...

Mrs. Corlew - ...and if you could just sign that (inaudible).

Mr. Morey - Okay. At this time I make a motion to deem application ZBA 2017 as an Unlisted Action under SEQRA review and that it will not result in any significant adverse environmental impacts. Is there a second?

Mr. Oehler - I'll second it.

Mr. Morey - Okay. All those in favor, say yes.

RESOLUTION #2017-13

Motion by: Mark Morey

Second by: William Oehler

RESOLVED, to deem application ZBA #2017-4 by Steve Lofgren, tax map #210.12-2-20.2, located on Main Street, for a use variance, as an Unlisted Action under SEQRA review and that it will not result in any significant adverse environmental impacts.

DULY ADOPTED ON THIS 12TH DAY OF OCTOBER, 2017 BY THE FOLLOWING VOTE:

Ayes: Theresa Coughlin, Alan Hall, Mark Morey, William Oehler

Nays: None

Mr. Morey - Are there any questions or anything the Board would like to go over before we proceed to a vote? Anything for the... Anything for the applicants? On the questions one through four, anybody, everybody's (inaudible) their opinions.

Mr. Oehler - Hm hm. Yes.

Mr. Morey - A yes vote will approve the application ZBA 2014-4, or ZBA 2017-4. Okay, Mr. Oehler?

Mr. Oehler - Yes.

Mr. Morey - Ms. Coughlin?

Ms. Coughlin - No.

Mr. Morey - Mr. Hall?

Mr. Hall - Yes.

Mr. Morey - And I vote yes. So you have your variance for the property. Of course, you're subject to the Planning Board and any other agencies that you'll need to work your way through. And thank you for your time.

Mr. Meyer - Thank you.

RESOLUTION #2017-14

Motion by: Mark Morey

Second by: William Oehler

RESOLVED, to approve application ZBA #2017-4 by Steve Lofgren, tax map #210.12-2-20.2, located on Main Street, for a use variance, to allow the use of automotive sales and service.

DULY ADOPTED ON THIS 12TH DAY OF OCTOBER, 2017 BY THE FOLLOWING VOTE:

Ayes: Alan Hall, Mark Morey, William Oehler

Nays: Theresa Coughlin

Mr. Morey - Patti, is there any other business to come before the Board?

Mrs. Corlew - There is not.

Mr. Morey - Then I'll close the public hearing on ZBA 2017-4, so I don't forget to. And I'll make a motion that we adjourn. Is there a second?

Mr. Oehler - I'll second it.

Mr. Morey - All those in favor.

Motion by Mark Morey, second by William Oehler and carried to adjourn Zoning Board meeting at 8:05 p.m.

Respectfully submitted,

Patti Corlew
Recording Secretary

zb10122017

RESOLUTION #2017-13

Motion by: Mark Morey
Second by: William Oehler

RESOLVED, to deem application ZBA #2017-4 by Steve Lofgren, tax map #210.12-2-20.2, located on Main Street, for a use variance, as an Unlisted Action under SEQRA review and that it will not result in any significant adverse environmental impacts.

DULY ADOPTED ON THIS 12TH DAY OF OCTOBER, 2017 BY THE FOLLOWING VOTE:

Ayes: Theresa Coughlin, Alan Hall, Mark Morey, William Oehler
Nays: None

RESOLUTION #2017-14

Motion by: Mark Morey
Second by: William Oehler

RESOLVED, to approve application ZBA #2017-4 by Steve Lofgren, tax map #210.12-2-20.2, located on Main Street, for a use variance, to allow the use of automotive sales and service.

DULY ADOPTED ON THIS 12TH DAY OF OCTOBER, 2017 BY THE FOLLOWING VOTE:

Ayes: Alan Hall, Mark Morey, William Oehler
Nays: Theresa Coughlin