

## **Town of Washington Zoning Board of Appeals**

A Zoom Meeting and Public Hearing of the Town of Washington Zoning Board of Appeals was held on March 16, 2021 to consider the application of Mabbettsville Realty of NY LLC (Mabbettsville Gas Station) 3820 Route 44, Mabbettsville. The property is zoned HM.

Be advised that due to the novel corona virus pandemic and Governor Cuomo's Executive Orders the Board decided to hold this meeting without permitting public in-person access and to hold the meeting via "Zoom."

Members present by voice roll call, Chairman, John Parisi, Peter Audia, Fletcher Coddington, Ken Holzberg, Frank Redl, also Howard Schuman, Conservation Advisory Commission Representative.

Chairman Parisi called the meeting to order at 7:30 P.M. announced there are four agenda items, the order will be Mabbettsville Gas Station Applicant to describe the proposal, a public hearing on the application, discussion/decision on lead agency for Janet Farm LLC, and the two guest speakers, attorneys Charles Gottlieb and John Lyons.

Chairman Parisi announced that he received a request from attorney Charles J. Goolieb, Whitman, Osterman & Hanna, LLP, Albany, NY to virtually appear to speak briefly at tonight's meeting to introduce themselves and discuss the proposed Second Mountain Development proposed by Janet Farm LLC.

Chairman Parisi spoke to the application of Mabbettsville Gas Station being referred to Dutchess County Planning, that a response has not been received to date, that the board cannot make an official ruling until a response is received, the County has thirty days to respond.

Chairman Parisi read an email from Bob Mathers, Global Storage, saying he supports the application, said the applicant has lost a lot of money, is not sure about the LED light. Greg Jeffers is virtually present before the board to review the application. Said he is the person who supplies the signage. Said, the gentlemen that supplies Mabbettsville Gas Station is the general master holder of the Gulf Franchise, supplies that site location. They are the ones that supply the signage and all that stuff. Said, he is here to respond to any questions the board has, in particular about the actual signage.

Board member Holzberg announced that there is a simultaneously meeting going on with a lot of people present. Attorney Gottlieb went to check on that meeting, thinks the board should listen to him because it may affect how this meeting goes, that if there are a

number of people that think they are attending this meeting that can't we need to find out about it. Attorney Gottlieb said he just followed the link on the full page of the town website, which doesn't work but if you put in the meeting code and password you get admitted to another meeting of which there are about eighty people at that meeting waiting for the ZBA to start. Said, he was forwarded the link to this meeting by email by Chairman Parisi. If this meeting continues in this zoom meeting link it would have an effective notice because the website is how this town posts its notice. He suggests that the ZBA members go to the website entering the meeting code and passcode for that zoom meeting and attend that meeting because that is where all of the public is currently located.

Board member Redl said he agrees with attorney Gottlieb. If the public is willing to be noticed by the town website link, thinks the board is going to have to go to that one. Board member Holzberg said that the link doesn't work, the meeting code and the pass code has to be entered. Attorney Gottlieb said that was his experience, yes. (It is said there are 80 persons at the town website zoom meeting link waiting to participate.)

Board member Holzberg said more importantly the board has to decide whether we are having the meeting here or going to the other meeting. Questioned chairman Parisi if he has any input on this? Chairman Parisi said he thinks the board should try going to the other meeting. If attorney Gottlieb is right, then what was posted has got to be the official meeting. Board member Holzberg stated that all board members are going to sign off and try to get on this other meeting.

Howard Schuman announced that he sent a submission the other day as a Town of Washington Comprehensive Plan Committee member, he would like that letter with the illustration read into the record if he is unable to connect to the meeting, questioned if this is possible? Chairman Parisi responded that is possible.

Board member Redl gave instructions getting to the other meeting, on the Washingtonny.org website, go to boards there is a link, you click on for the zoom meeting, scroll down to the ZBA there is another link there that you click on. Attorney Gottlieb said he clicked the link on the homepage. Board members attempted to go to the other meeting. Planning Board member Nicole Drury phoned secretary Caul to say she is unable to connect to the meeting. Secretary Caul gave her the information that all members signed off this meeting link.

Town Clerk, Mary Alex called in from her cell phone, questioned if chairman Parisi is signed in as himself or into her login. Howard Schuman said he signed it as host. Town Clerk Alex said she was going to the zoom website, make sure that it is all being recorded.

Board member Redl questioned if there is any limit to the number of persons that can go on a link. Attorney Gottlieb said there is no limit it's a time consideration.

Town Clerk Alex suggested if chairman Parisi is unable to speak another member of the board should start the meeting at this point. Due to technical difficulties chairman Parisi was unable to be continuously connected to the zoom meeting. The meeting was transferred to board member Redl who reopened the meeting at 8:07 P.M.

Board member Redl spoke to the Mabbettsville Gas Station Application, asked that the person representing the applicant or the applicant explain the nature of the application and what they are requesting. Board member Redl asked that he explain to the board what the variance request is for, to make a presentation. Applicant said for four or five months in all of that time the gas station lost a lot of money because there is no price sign.

Board member Redl said his understanding is that the applicant submitted an application to the planning board who sent him to the ZBA. Greg Jeffers who virtually appeared before the board, requested to address this request. Said, he was at the planning board zoom meeting, The planning board wanted him to come to the ZBA because they were not sure if the code allows to have an LED price sign.

Board member Audia said he talked with chairman Parisi on the phone, he is trying to connect if possible. The issue here is 1) the proposed sign does not meet the original sign approval size 2) the ZBA is trying to determine the definition of an LED vs NEON, is a secondary issue. The main issue is that the proposed sign is about ten square feet larger than what the original sign was approved for.

Mr. Jeffers commented that they didn't add or change anything, if it was done it was before the existing owner. Everything that was replaced was to the existing signage boxes that were at the site, that was before them. Board member Redl said that the application before the ZBA is not requesting a variance for the size, its requesting a variance for the lighting.

**A motion to open the Mabbettsville Realty of NY (Mabbettsville Gas Station) Public Hearing was made by board member Coddington, seconded by board member Audia. 4 ayes**

Howard Schuman addressed the board, said he was on the Comprehensive Plan Committee in 2015, said they looked at all of these codes that go back as far as 1989. The agenda was always the same, the aesthetics of the town and the actual resources of the town. That is what most of the Code was written for, that includes all of the signs, the sign language was written with intent in mind. They talked about neon type lighting. There are only two types of signs, the old sign

that is pictured in 1996 which was the sign that was approved. In Pleasant Valley there is another Gulf station, looking at that one the average person will say that is a neon type sign. Said, he cannot give a technical definition of everything on the sign but he knows a neon sign when he sees one. The Gulf station in Pleasant Valley is a neon type sign. On the internet there are all neon type signs, the first one is a gas station sign for sale, there are other types of neon light type signs, everyone knows that those are neon type signs. What was intended when the Committee wrote this code in 1989 and updated in 2015 is that type of sign is different from the regular sign. The applicant is asking for a type of sign use that is not allowed by Code, that is the basic issue. The Master Plan was all about the look and feel of the town, those signs were not wanted in this town for the way this particular sign looked. Said, he is opposed to granting this variance, if the board wishes to look at a use variance its up to the board. This is not something they left to chance, they specifically wrote that into the Code that this was not allowed.

There is a second issue with the gas station itself, they have quite a few signs there. The purpose of that sign code was so that the town doesn't get cluttered up with signs. There may be an existing violation, leaves that up to the zoning administrator or building inspector, Before the board can proceed with this the question is are there other violations or signage on that property, if so, there is something in the Code that says you can't proceed until you clear up the existing violation. That is another problem that exists with this application. Also, board member Audia brought up about the size of the proposed sign, is bigger than the original sign that was approved. According to the building inspector and zoning administrator there are no records of any other approvals for signs. Whoever changed the signs did so without getting them approved. There are a lot of technical problems with this application but the bottom line in his opinion is that the applicant is asking for a use that is presently not allowed, a neon type sign. This sign looks like a neon type sign, that use is not allowed presently under the Zoning Code. In consideration of the esthetics of the town this is not the only person in the town that may want to have sometime in the future a neon light sign on their property. Said, he is saying this because he spent eight years on the Comprehensive Plan looking at all of this, thinks we deserve to have a town that people want to have.

Greg Jeffers next spoke to this application, said he hasn't seen excessive number of signs at the Gulf station, they have upgraded the sign at the station, if you look at the existing Mobil sign that is there, they went from a sign that was fully lite to where only the logo on the Gulf sign is lite, significantly reducing the lighting there. The boxes that the price signs are into is what they inherited. They did not have that. That was something when the station was bought by this gentlemen that is what you see with it (Board member Audia said the board knows this.) Also, in the sign allowance for the town it says they are allowed a sign on the canopy, they don't have that. We have a small sign with just the name of the store on the building. That's it. In his opinion they are in compliance with

the signage that's required. Said, he disagrees with the gentleman calling it a neon sign. As a sign guy it's a lot of difference between an LED sign and a neon sign. He wants to be very clear that he does not agree with that characterization.

Board member Audia questioned Mr. Jeffers if he assisted in the application? Yes. Board member Audia requested him to state for the public what he wants the variance/application for, is it the lighting, the size, is it the sign?

Mr. Jeffers said he was told by the planning board that they needed to go to the ZBA for two things, 1) there was an additional box which is where the diesel is, maybe additional to the sign 2) Needed clarification to allow use of the LED signage.

Board member Audia stated that according to the meeting minutes the sign is ten square feet bigger than the original sign. The sign that existed before where ever that is, in the back of the building, is not sure. those are the issues the board needs to review to look at this objectively.

There being no other comments, **a motion to close the Mabbettville Realty of NY LLC (Mabbettville Gas Station) was made by board member Holzberg, seconded by board member Audia. 4 ayes.**

Board member Redl spoke to the board needing to make an interpretation of whether LED lights are within the meaning of neon type lights if so, will need to determine whether the area variance can be granted using the statutory criteria. This site location is on a state highway and the ZBA was required to refer the application to Dutchess County Planning, that has thirty days to respond to the referral. The board is unable to vote on this application tonight, called for a motion to adjourn the meeting to next month.

**A motion to adjourn the Mabbettville Realty of NY ) Mabbettville Gas Station) to April 20, 2021 was made by board member Audia, seconded by board member Holzberg. 4 ayes.**

Board member Redl spoke to receiving a request from the Town Board that an application has been made to the Town Board in the form of a petition of Janet Farms LLC for an amendment to the town zoning code to allow a new overlay district for the use of an application. This has been referred to the ZBA and potentially involves an interested agency. This evening the ZBA will consent or not consent to the Town Board being lead agency. The ZBA was contacted by two attorneys who wish to comment about this application this evening.

Town clerk Alex interjected that she is going to mute everybody, then un-mute attorney Gottlieb enabling him to speak.

Attorney Charles J. Gottlieb, Whitman, Osterman, Hanna, LLP. Albany New York addressed, thanked, the board for allowing him to speak on this matter, said he has been retained by Veronica Bulgari, Stephen Haimo, and Alain Wertheimer, who are property owners directly adjacent where the Janet Farm LLC resort is proposed.

The Board was alerted to the fact that they received secret notification that they are an involved agency. Said, he would submit that consenting or not consenting to lead agency is certainly their role here but also issuing comments on the application as an interested agency would be very appropriate for this board to do.

Said, this proposal is going to impact this town as a whole. John Lyons represents a majority of the residents in the town and their fight against this proposal. His clients have been very direct in concrete injury that absolutely will result if this proposal goes through. There is going to be traffic, noise, light pollution, hydrology issues, which was actually heard at the Village of Millbrook Board of Trustees, were worried about this other night. .

He has submitted a letter to the Town Board, dated March 15, 2021, copied this board on that and submitted it today for their review. He is going to highlight a few things that he would like this Board to consider as they make their comments to the Town Board. We ask that this Board make comments, number one, most significantly that the re-zoning is completely inconsistent with the town Comprehensive Plan and it can't be passed until that consistency is achieved in some manner. Re zoning must be consistent.

Said, he has been doing development work for about eleven years, has never seen a project so inconsistent with a comprehensive plan. In fact if he were representing the developer he would say, don't even propose a re-zoning until you get a favorable comprehensive plan because its just going to be thrown out in court.

There are a couple of inconsistencies, 1) the Comprehensive Plan says to keep the town rural, what's proposed, a resort with seventy hotel units, a restaurant, twenty three houses, a cabin, a camp ground, commercial amenities, and an outdoor movie theater. The Comprehensive Plan says preserve the town and the village validity keep the dense areas in the Village, what's proposed, dense commercial development in the town. The Comprehensive Plan says avoid infrastructure expansion, including no centralized sewer or water, what's proposed, a waste water treatment plant on the property, because how are you going to handle that much solid human waste without having a waste water treatment

plant that will eventually likely discharge somewhere on that property The Comprehensive Plan says, discourage new roads, what's proposed, a development of internal roads and access drives to meander throughout these twenty-three new homes. We are not talking about little paths, we are talking about significant roads that would be the same size as any residential development because it has to be that size for emergency access. There is going to be significant land clearing, its just unavoidable. Based on these inconsistencies the ZBA should issue comment that no re-zoning can be passed because of the inconsistencies.

Said, they have said this to the Town Board, it appears it has fallen on deaf ears, so we actually are making these comments on behalf of the residents. Maybe the Town Board will listen to its sister administrator agency, an administrative board, in reviewing that.

Another comment they would like this Board to consider is, if the Town Board does go ahead and review this application, the New State Environmental Quality Review Act ("SEQRA") requires that a full Environmental Impact Statement be studied. It needs to study the re-zoning, the re-zoning impact throughout the town. (Where else could this overlay district be placed?) and the site specific impact.

There is not a theoretical project out there that we don't know about, that we can't study. It's a very concrete project. An Environmental; Impact Statement is what is needed. This Board should tell the Town Board, we don't have enough information to comment on this application. We need to see a full site plan, hydrology study, wildlife study, wetlands study, stormwater pollution prevention plan, a traffic study, a noise study, a lighting study. This will eventually become a "wedding and event venue" that will have significant noise and lighting. He has seen it before, knows it will happen here.

He would urge this Board to make a comment that the Town Board should not be the lead agency. In his professional opinion, (for which he has been doing land use stuff for some time now) the Planning Board should be the lead agency. The Planning Board should be the one to review the environmental impacts. The Planning Board is not motivate by politics, the Planning Board is very intimate with the land uses, the development and the related impacts that are ongoing throughout this town. They suggest that the ZBA make a comment, say, if you are going to consider this the Planning Board is the one who should review the Environmental Impacts. Mainly because they are not politically motivated.

Lastly, this comment pertains to your Board specifically, if the proposed overlay district goes through it completely eliminates the ZBA's purpose. Your purpose is a board that interprets the Zoning Code, issues an area variances if there are dimensions that are non-conforming, or density that is nonconforming. Now, if this re-zoning is passed a project

developer can come in, say, well I would have to do a lot of area variances to get the density I need for a project and I don't want to go before the ZBA so the project is dead. Instead now, the developer would say, I need a lot of area variances for this project, I am probably going to get them because I don't meet these area variances standards. So, I am going to the Town Board through this overlay district. I can do a development as dense as I want and not have to worry about going to the Zoning Board of Appeals for area variances. I can just lobby the Town Board to get my approval with the overlay district.

Said, he really would encourage this Board to give meaningful comments on this application. Again, the Town Board is not listening to the residents. When you see the immense amount of people that are here tonight for this project, we hope that you reconsider your comments.

Relative to the technical difficulties, this is more of a submission you would make to the Town Board, your comments if there are ongoing technical difficulties that are a product of our usually covid world that this application is so serious right now we don't know if someone is trying to get into this meeting and comment on it and they can't. This really needs to be paused until these technical difficulties stop. We have had Town Board meetings that are lost, Town Board meetings without an audio, there was a Town Board Meeting on Monday where noone was allowed to participate, couldn't participate in the meeting. These things can't happen. They can't continue to happen.

Said, those are his thoughts, if the board has questions to feel free to reach out. Appreciates the time to speak this evening.

Board member Redl spoke to allowing zoning board members to ask if they have questions for attorney Gottlieb. Board member Holzberg said he doesn't have any specific questions, now but after the two attorneys speak would like to say something. Board member Redl next introduced attorney John Lyons, environmental use lawyer.

Attorney John Lyons addressed the board, said, he will cover a little of the same of what attorney Gottlieb has said. He agrees with the points that he has raised. Said, he is grateful for the opportunity to speak, for those who don't know him his name is John Lyons, an environmental land use lawyer, has been practicing in these fields for more than thirty years. His firm is deeply experienced in the drafting and zoning laws and amendments conducting land use reviews, conducting environmental reviews pursuant to (SEQRA) and all aspects of land use review equation. Over the years they have represented many municipalities throughout the Hudson Valley and Eastern Upstate New York and assisted in the drafting of many zoning laws and amendments.

Said, he is here tonight to say a few words about the amendment that is the focus of this application, also to talk about to the Board and ask a request of the Board in terms of the response that they have upcoming to the Town Board circulation of this amendment pursuant to (SEQRA).. He is here tonight on behalf of their clients, which is a group called “Friends of the Town of Washington”. Their clients are deeply concerned about the zoning amendment that has been proposed by Janet Farms LLC. Their group has the support of more than two hundred citizens within the Town of Washington and also from surrounding towns, that number is growing every single day as the awareness of this proposed amendment and the Second Mountain Project grows.

In his email sent to the Board earlier today he provided with a copy of letters that he sent to the Town Board on March 11<sup>th</sup> which sets forth the names of their supporters. They are collecting more new names every day. He also provided in his email today a copy of his letter dated March 5<sup>th</sup> to the Town Board. In that letter he explained in detail how the proposed amendment runs afoul of the Town Comprehensive Plan, about its failure to comply with (SEQRA) and also about the five zoning issues presented by the amendment.

On March 11<sup>th</sup> he appeared in front of the Town Board and explained further some of the real dangers that this ill conceived amendment poses to the town as a whole. The amendment will open the door to large scale development within the RR10 and RS10 zoning districts. They together cover most of the town. These zones were designed to restrict development in those districts overwhelmingly to low density residential and agricultural uses. Functionally the SPA Overlay Zone will function as a floating zone within the RR10 and RS10 district. That means that the development is not restricted to a fixed location. It also means that large scale development that the amendment allows can potentially land in many possible locations in the RR10 and RS10 zone. In addition, the amendment fails placement in the kinds of land use that will be allowed in the SPA Overlay Zone Section 349c of the amendment says that the location and types of uses to be allowed will be determined on a case by case basis by the town law with no limitations in the amendment itself.

Failing to place limits on the kinds of uses allowed by the amendment will have developers flocking to the Town of Washington to take advantage of that unfeathered freedom. That holds the prospect of bringing negative changes to this community that could erode the rural and community character that so many Town of Washington citizens dearly love about the town.

The potential adverse impacts that may flow from the proposed amendment are both frightening and dangerous. They have asked the Town Board to drops its consideration of this amendment, to slow down and think more carefully about exactly what is being asked and to think about the town changes that might result. They are asking them to

think about the community first instead of in the interests of the developer that has proposed this amendment.

Like attorney Gottlieb he asks the Board in their comments to the Town Board also to ask them to drop consideration of the amendment so that a proper planning evaluation and consideration can take place. For now, the Town Board is continuing to proceed with its review.

In speaking about the (SEQRA) review and the request that the Town Board be the lead agency, he is asking that in response to the Town Board lead agency's circulation that this Board tell the Town Board that the Planning Board should be the lead agency for the environmental review of the amendment and in the Second Mountain Project. The Planning Board is simply more experienced as acting as lead agency under (SEQRA) and is better suited to conduct the environmental review in this case. The Planning Board is an agency that is used to considering, conducting, environmental reviews as part of its regular business. In contrast, town boards generally rarely act as lead agency.

The amendment in the Second Mountain Project has been classified under (SEQRA) as a Type I action. That means as a matter of law there is a presumption that those actions will have more than one significant adverse environmental impacts and as a result that the Environmental Impact Statement is likely to need to be done.

Although the defective Full Environmental Assessment Form which has been filed with the amendment doesn't indicate so, (SEQRA) for state law that governs environmental reviews requires that the environmental review of the amendment evaluate the potential adverse impacts of any potential development that will be allowed by the new amendment anywhere in town. That means that the reviewing agency is going to have to determine where else development can occur in the town on this amendment and make sure that the adverse impacts that are presented by development in those areas are evaluated and the adverse impacts mitigated, all as part of the environmental review of the amendment.

The environmental review by law must encompass far more than just the Migdale property. The environmental review ahead will be complex and challenging, its clearly in the best interest of both the town and the citizens to have the environmental review conducted by the town agency that's best qualified to do so, and the one with the most experience in conducting the environmental reviews.

Attorney Lyons asks this Board to urge the Town Board to designate the Planning Board as the lead agency for environmental review. But he first asks that this Board ask the Town Board to shut down, drop the consideration of this amendment and of this project for now, step back and do the thinking that is necessary to really take the sensible planning

approach for what is being proposed, perhaps more importantly, taking a break to listen to the voices of many, many, citizens that are expressing deep concerns about what is being proposed. There is no reason why this even has to even be considered at all, as a community you need to step back and really make the decision about whether this should be happening at all. Attorney Lyons submits that it shouldn't. Even if this were to be a good idea, this is a terrible way to go about this.

Attorney Lyons thanked the Board for the opportunity to be heard this evening.

Board members were unmuted so they could be heard to resume conducting the meeting. Board member Audia said chairman Parisi is able to hear the virtual meeting but cannot participate in the meeting.

Board member Redl spoke to responding to the Town Board, questioned board member Holzberg if he is ready to make any comments, statements? Board member Holzberg said when he entered the meeting tonight he thought they were talking about a gas station sign in Mabbettsville. Then he heard that two attorneys wanted to speak right before the meeting so he thought it was a great idea and appreciated hearing their comments.

To his fellow board members and anyone who is listening, board member Holzberg wants to say that he is a little confused. He has attended every one of our evening meetings and has never had a presentation given to us where the project was presented.

As far as this Board is concerned we haven't had any presentation, we haven't been able to ask any questions of this developer and the folks that are involved. Maybe he is not understanding it but he is confused about what they are being asked tonight, as a board, to consent to a lead agency and also to make comments about a project that we know very little about except what we have heard from the two attorneys that are representing parties that are opposed to it. Help is needed to understand how we can intelligently give our consent to a lead agency or better yet how we can even make comments about a project where nothing has ever been presented to this board and have never been given an opportunity to ask questions. It doesn't make sense to him.

Board member Audia said, "he has been scratching his head about this also." He is not dumb to it, he knows the area extremely well, knows the basics of the project, but again, we need a proper presentation to solidify any determination and quite a bit of concentration included.

Board member Coddington said his take on this is that he thinks the applicant would be better served to go through the traditional process of approval with the Planning Board and the ZBA. He can understand some feelings of urgency by some of the local elected

officials in that having lived here his whole life and watched a lot of houses of the same stature go to ruin and become a liability, is not a thing that he would like to see happen to Migdale but it's a possibility. Looking at the town and the relationship to what happened with Bennett College compound, the owner brought five or six different possibilities and the village shot them all down.

He is not saying he is for this project, but certainly is not willing to give his blessing to the Town Board to be the lead agency. Thinks that there is a lot more that has to be disclosed to the public, thinks that the overall plan needs to be proved a great deal before anybody is going to accept it, if, they accept it.

The Comprehensive Plan basically says you can't do this. Those are his thoughts but hasn't had any real definitive feelings one way or the another about this. He maintains an open mind. Does believe that it is necessary for this applicant to go through the existing processes and be much more transparent with the community.

Board member Redl, speaking for himself, also is not clear on all of the details of this application. He has to trust the Town Board that they have their own reasons for going this far. The Board can do several different things tonight, could do nothing, could give no recommendations to the Town Board, in which case after thirty days the Town Board would just treat that as accepting as lead agency, or, the Board could send notification to the Town Board saying with respect since we don't have enough information we cannot consent to the lead agency status at this point.

Judging from what board members are saying, is assuming that we would like to give a polite response to the Town Board that we respectfully cannot give you a solid consent or objection because we don't have enough information on the subject.

Board member Audia feels the board cant make a decision either way, we certainly don't have enough information for the public to attempt a public hearing on this, we just don't have enough information.

Board member Redl stated that there is no application in front of the Board. Board member Holzberg said he agrees as well. Said he doesn't see how the Board can consent to something we don't have any information on.

Board member Coddington said he read the information that is on the town website, spent the last two and one half hours trying to brush up on this so that he would have some knowledge. In one of the documents he read that if this board doesn't respond its considered an approval. He thinks that saying we don't have enough information, is that not a no response? From his point of view he would hope no to allowing the

Town Board to be the lead agency on this because of the manner in which this has been brought to our attention.

Board member Holzberg clarified what board member Coddington said, thinks what he is proposing is that we say we are not consenting to the Town Board being the lead agency because we don't have the information to consent to it. Board member Coddington said, "correct." Board member Audia said, "this sounds okay with me." Board member Redl agrees with that. Said, based upon the knowledge of this project he is hesitant to give a blanket okay, thinks a lot of important consideration needs to be given to the project, There are some legal arguments for and against this project, thinks it has to be carefully reviewed and considered as we move forward.

Board member Holzberg again clarified, "we are not consenting to the Town Board being lead agency." is that correct? Board member Redl said yes, based upon the little information that we have. Board member Audia, said, "we just haven't had a proper presentation to even digest the information. That's pretty much it."

Board member Coddington spoke to not knowing how to do this on a zoom meeting, but he would like to see a show of hands of anybody that approves of this particular application. Wants to hear from the public, not the board. Questioned if there is anybody that approves? Board member Audia said the only way to do this is like in the "dancing days" yell yes, yell no, see who is the loudest.

Town Clerk Alex interjected, if the Board wants to ask that question she can type in the full question. The Board consented that she do this. Board member Redl said everyone is doing it by chat It is said, all 80 participants voted, no..

Attorney Gottlieb spoke to the Board not having enough information, Said, he typically represents developers, if he were representing the developer he would have been here tonight, would have made a presentation to this Board, would have been advocating why it's the right move. It calls into question why the developer is not here. Secondly, someone mentioned, maybe seeking legal council for this Board. This Board is absolutely within their rights to do that. He would keep in mind that the town attorney currently represents the Town Board so there might be a potential conflict there. If this Board wants to seek its own council they are absolutely within their ability to do so.

Town Clerk Alex spoke to seeing some people raising their hand, questioned if the Board would allow her to open the meeting to them or how to proceed? Board member Redl said its not a public hearing, he is assuming that the two attorneys spoke on behalf of everybody. He wanted to open the meeting to the one hundred people who have comments. Fortunately, there is the general consensus that they are going to respond to the

Town Board that based upon the limited information before them they cannot consent to their being lead agency. Board members responded in unison, "yes." Board member Redl said he will speak to secretary Caul tomorrow to prepare the notice to the Town Board.

Board member Redl thanked everyone for virtually coming out this evening, this is a record number of persons attending a ZBA meeting. Also, thanked attorneys Gottlieb and Lyons for their presentations.

Town Clerk Alex said she spoke with Supervisor, Gary Ciferri today, on the town home page there is a message from her to the community that may be read. The Town Board will be holding a public meeting at the Town of Washington Park because it's the only safe location to hold a public meeting for the number of people that will be attending. Said, she needs to get in touch with all Town Board members but anticipates its probably going to be held at the end of April or early May for the meeting. Said, she just confirmed that she was allowed to tell everybody. Everyone will be notified of the date.

There being no further discussion, comments, business, a motion to close the meeting was made by board member Coddington, seconded by board member Audia.

Respectfully submitted,

Nikki Caul, secretary



