

**PUBLIC HEARING  
LIBERTY TOWN BOARD  
DECEMBER 19, 2011 6:45 P.M.**

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At a Public Hearing of the Liberty Town Board held on December 19, 2011 at 6:45 pm at Town Hall, 120 North Main Street, Liberty, New York, to hear oral and written comments from concerned citizens with regard to:

***INTRODUCTORY LOCAL LAW #2 OF 2011 ENTITLED "A LOCAL LAW CORRECTING ERRORS IN THE ZONING MAP WITH RESPECT TO TAX MAP PARCELS 13.-1-7.1, 13.-1-7.2, 18.-1-31, 18.-1-36.2, 20.-3-6 AND 20.-3-8***

The following board members were present:

Present: Supervisor John Schmidt  
Councilperson Maurice Gerry  
Councilperson Lynn Killian  
Councilperson Thomas Hasbrouck  
Councilperson Christopher Austin

Recording Secretary: Town Clerk Laurie Dutcher

Also present: Town Attorney Kenneth Klein

Supervisor Schmidt called the meeting to order at 6:45 p.m.

**Howard Ritzberg (Attorney for Ben Weitsman)**

Mr. Ritzberg advised the Board that Ben Weistman has a reputable shredding facility in Owego, NY, and he is a responsible businessman, promotes jobs and is community minded.

Mr. Ritzberg went on to explain that Mr. Weitsman would like to move Liberty Scrap Metal to property located on Exit 99. He advised that the Town Board passed a resolution to move the junkyard and were sent to the Planning Board. Upon going to the Planning Board they were informed that the property had been re-zoned to R-1. Mr. Weistman would like the Town Board to consider passing the local law changing the zoning back to IC. Mr. Ritzberg informed the Board that Mr. Weistman wants to be here and will bring approx. 10-20 jobs to Liberty and that he would conform to all regulations as set forth by the Planning Board.

**Helene Rothstein**

Found out on 11/21 that her property was re-zoned. The property has been in her family for 65 years and she would like it to be returned to IC. Mrs. Rothstein advised that she didn't think anyone would be building a house by an interstate.

**Camillo C. Riili**

Mr. Riili advised the Board that he moved to Liberty 10 years ago and lives by Exit 99. He advised that at the time the ALIVE group was very active and there was hope. He advised that since then the quality of life has deteriorated, but he does want to continue to live here. Mr. Riili advised that this business would further deteriorate Liberty. If the Board speaks for the interest of the people he hoped they would vote no. This will have long term consequences.

### **Leopoline Jafri**

Mrs. Jafri advised the Board that she and her husband were the owners of the Catskill Motel. She advised that they have put a lot of money into the Motel and doesn't feel that a scrap metal yard would be very inviting. She advised that she hoped it did not pass.

### **Lilly Stettner**

Mrs. Stettner advised the Board that she doesn't believe that the zoning committee made a mistake. She feels they should be put in the IC Industrial Park.

### **John Nichols**

Mr. Nichols informed the Board that the Town of Liberty is declining, there are no jobs and no tax base. Mr. Nichols advised that the Weistman Plant in Owego shows very nicely. Mr. Nichols advised that this land had been IC for 65 years and then when a business wants to come to our town and the landowner is in contract, the Town changes the zoning. Mr. Nichols stated that Mr. Weistman runs a tight ship and we need the jobs. Mr. Nichols stated that he is sick of the naysayers and nimbys and begs the town to put it back to IC.

### **Glen Pointier of Sullivan County Renaissance**

Mr. Pointier advised the Board that he does not feel that this was an error but a zoning change. He stated that an environmental assessment review should have been done because of the effects to the environment.

### **Dan Ratner**

Mr. Ratner advised that the ALIVE Group is alive. He advised that Weistman would be doing a service for the community by cleaning up the Zalkins junkyard and it would be overseen by the Planning Board and the DEC. Mr. Ratner stated that Liberty is not coming back as it used to be.

### **Mr. Page**

Mr. Page advised the Board that bringing industry and jobs is a good thing and the only people it would affect would be him and his wife. Mr. Page stated it was IC before and hopefully it will be IC again. Mr. Page stated that the campaign platforms were to bring in jobs and he pleads with the Board to change the law.

### **Jonathan Hyman**

Mr. Supervisor, members of the Town Board, thank you for holding this public hearing and thank you for considering my remarks. My name is Jonathan Hyman and I am the Director of a company

called the Public Forum Group. This company works with individual citizens and citizen's organizations to help them organize themselves, understand land use, zoning laws, and, in general, become familiar enough with the complicated issues surrounding development that they can have a public voice and an opinion that is balanced, rational, and worthy of serious consideration. Often, as is the case tonight, we work with other hired professionals to present important factual and relevant information.

Tonight I am representing Dr. Jeffrey Cohen, a local dentist who has offices in Bushville and is a Town of Liberty resident with a home and property located at 103 Youngs Hill Road, not far from the site of the proposed zoning change. Unfortunately, due to a family commitment Dr. Cohen could not attend tonight's public hearing. Over the course of the past several weeks, after learning about proposed local law #2 of 2011, Dr. Cohen has spoken with and informed many Village and Town of Liberty residents about this law you are taking testimony on tonight. He has organized what I would describe as a yet-to-be-named, loose-knit coalition of citizens who oppose the re-zoning of the land around exit 99 off of Rt. 17 east, from its current R1 low density designation to IC industrial commercial status. Until this group of citizens organizes further and names itself as an entity, I will be speaking only for Dr. Cohen.

I will make a general presentation about the history of the land in question using a number of visual aids and maps and Dr. Cohen's attorney, Robert Graubard, from the Greenwald Law office will speak later to the legal issues involved with this zone change. My assistant will hand each of you a small file of materials to assist you in following along as I use these large maps before you. Your file contains smaller versions of these maps.

### **Three Separate Maps Show Similar Intent**

We believe this local law and your proposal are both fraught with problems. In 2008, the Town of Liberty and the Village of Liberty ushered in a new, **Joint** comprehensive plan. As you know, a comprehensive plan, sometimes referred to as a master plan, sets forth a number of goals and objectives that in essence lay out the philosophy by which a town wishes to live -- in the present and in the future. It is a road map if you will, of what the town should look like and be like -- where you want your business sectors, industrial sectors, your residential sectors, agricultural land, and other areas perhaps, where you want a mix of businesses and residences, and so on.

The 2008 joint plan makes clear that the Village and the Town want to grow out towards exit 99 and beyond, towards Parksville. This is evident from the map that accompanied the comprehensive plan. (Exhibit A) This map clearly shows, that other than the area right around the pre-existing asphalt plant, colored purple, the rest of the land adjacent to and near the Village around exit 99 is planned to be like the Village, R2 high density residential zoning or R1 low density residential zoning. This is notated by the color yellow. And this makes sense given that the district intent of the IC , commercial zone is so at odds with residential living. (Included in your folder of materials are the district intents for the 4 zoning districts relevant to my testimony.)

The Town of Liberty relied on a Zoning Review Committee to propose zoning that would meet the goals and objectives of the comprehensive plan. The Town Board adopted a resolution that it

would abide by the recommendations of the Zoning Review Committee, and in June of 2010 the committee proposed zoning as seen in the second map. (Exhibit B) As you can see, maps A and B are similar and the area in question is color coded the same -- yellow for R1 and purple for IC. The Zoning Review Committee and the Town Board continued to work on the zoning and in March of 2011 a final map and zoning law was passed into law. This zoning, the Town's current zoning, is represented by Exhibit C. Exhibit C clearly shows there are essentially no changes from the proposed map to the final map in the area around exit 99. It is also worth noting that the final two maps show the IC districts being in the same place. We think the town and Village were pretty clear as to where they wanted their Industrial Commercial zone. There was some tinkering with the proposed zoning in the western part of the town out towards White Sulphur Springs and this was incorporated into the final map. We have reviewed the file, read the appropriate minutes and listened to audio tapes of Town Board proceedings and have not been able to identify discussions on the public record in which the Board expresses the intent to change the zoning in the area listed for change in the local law being proposed. It appears that discussion of the rezoning of this land begins only after Mr Zalkin, owner of the junkyard on the hill in Cooley called Liberty Scrap Metal, approaches the Board to transfer his Junkyard License to a Ben Weitsman, who owns a large industrial scrap metal business with yards across the region. Although there may have been informal discussion about the issue, it isn't until October 17, 2011 that Mr Zalkin actually submits a petition to the Town Board regarding the transfer of his license and relocation of Liberty Scrap Metal to the R1 Southerland property. Mr. Weitsman wishes to bring his business to the Southerland property once Mr. Zalkin's receives permission to relocate.

### **The Law Being Proposed is More Than Correcting Errors in The Zoning Map**

We do not believe the stated purpose of the proposed Local Law is correct. We do not believe the Town is simply "correcting errors in the zoning map." This appears to be an applicant driven zone change that will require the Town to do much more work and rigorous review under the law, and Mr. Gaaubard will address these issues. Additionally, we find it not credible to say this proposed local law is intended to correct errors when you will be adding so much property onto the existing minimal amount of IC acreage, that you will have effectively created a new IC, Industrial Commercial zone of approx.(50) acres. The Sullivan County Department of Planning and Environmental Management is also not satisfied with the explanation that you are simply correcting errors. In a letter sent to Supervisor Schmidt dated December 15, 2001, Planning Commissioner Luiz Aragon states, " ... **The County recommends that the local law be written as a zoning change and not as a correction. A zoning map change should be based on the goals from the comprehensive plan, so it would be helpful to include those goals the Town feels are supported by this proposed zoning change. This will enable the public input to revolve around the merits of a zoning map change.**"

Three maps I have shown you dating back to 2007 clearly show that there was no error. Make no mistake about it, what is being proposed for the 39 acre Southerland property up for zone change is an intensive industrial commercial use, complete with a metal crusher. This business is not compatible with high and low density residential living. You will have issues of community character, noise, devaluation of property, unsightliness, and in the end, a dead zone for residential growth. The Industrial Commercial district intent says the following: **This district is intended to**

**provide areas within the town for the development of job producing businesses and industrial uses where such enterprises can be assured that their activities will not be in conflict with residential uses. Development of this zone should reflect the rural quality of the town and should follow design guidelines to ensure buildings are compatible.**

### **Thinking Soberly About the Long-term Future of The Town and Village**

Because this is a joint comprehensive plan we ask that you review the various zoning district intents. These districts and their descriptions make clear that by changing the zoning around the exit 99 location to Industrial Commercial, you will be doing your partner, the Village of Liberty, with whom you share a comprehensive plan, a disservice. We request that you sit down with the Village of Liberty for a serious and substantive conversation about your shared future before you consider passing an ill-conceived law that flies in the face of the responsibility all of you have to take sober look at the long-term future of the Town. This is a responsibility that requires you to not say yes to any “growth” or any business that happens to come your way.

Last, we suggest, two things first, welcome Mr. Weitsman with open arms and find an appropriate home for his business in your industrial park or some other suitable place, if possible. And second, because Dr. Cohen is not a naysayer or a “Not In My Backyard” kind of person, he requests, if this land must be rezoned, please consider an SC, Service Commercial zone that would ably serve residents of the town and visitors with jobs, places to eat, places to shop, places to lodge, places to buy gas and places with other amenities as well. The Service Commercial district intent says the following: This district is intended to provide areas within the town for the development of commercial businesses and enterprises that serve the service needs of Liberty residents as well as the traveling public. What better place than right off of I 86 at exit 99. Instead of a dead zone, make exit 99 a productive and welcoming destination area that offers amenities, jobs, and a fine tax base.

Respectfully submitted  
Jonathan Hyman, Director  
The Public Forum Group

### **Robert Graubaun**

Mr. Graubaun advised the Board that he represents Dr. Jeffrey Cohen. Mr. Graunbaun wanted to know if the Village had ever been asked for input since it was a Joint Comprehensive Plan. He wanted to know if this business meets the goals as stated on page 11 of the Comprehensive Plan:

Protect & Preserve  
Attractive to tourists  
Quality of Life  
Rural Community

Mr. Graubaun stated that the Zoning change was not correcting errors, that it was spot zoning. He advised there was no environmental impact study. Mr. Graubaun stated it was a Type II action and therefore should have had SEQR. Mr. Graunbaun went on further to state that the junkyard ordinance prohibits new

junkyards in Town, and now they haven't complied with laws and have improperly created a 39 acre Industrial Park.

Adjourn

**On a motion by Councilperson Lynn Killian**, seconded by **Councilperson Thomas Hasbrouck** and carried, the Town Board adjourned the Public Hearing at 7:48 p.m.

Respectfully submitted,

Laurie Dutcher  
Town Clerk