**TOWN OF PLATTEKILL**

**ZONING BOARD OF APPEALS**

**P.O. BOX 45**

**MODENA, N.Y. 12548**

**Minutes of December 12, 2024**

**THE MEETING FOR THE ZONING BOARD OF APPEALS OPENED WITH A SALUTE TO THE FLAG BY CHAIRMAN, LARRY LINDENAUER AT 7:00 P.M.**

**ROLL CALL:** Chairman: Larry Lindenauer, Vice Chairman: Helene Dembroski,

Judy Loertscher, Bruce Jantzi, Robert Egan, Joe Egan, Chris Mercier

Mr. R. Egan sat in the audience for the meeting.

**MOTION:** Ms. Loertscher made a motion to approve the minutes of October 24, 2024 with Mr. Jantzi seconding the motion.

Mr. Mercier asked for a modification for the motion to also include the audio tape from the date of the trial October 8th only because there was a lot of stuff that was included.

Mr. Lindenauer: What are you specifically speaking to on the minutes?

Mr. Mercier: On the minutes I wanted to make the audio tape part of the minutes to be kept part of the record.

Mr. Lindenauer: Yes, the tape is always kept as part of the minutes am I correct?

Mr. Mercier: So, it does not get over written?

Ms. Stryker: No. The minutes are always put on the computer and backed up.

Mr. Mercier: Ok I know there was a lot to discuss and you tried your best but you are not going to get everything and we understand. I just wanted to make sure.

Mr. Lindenauer: The audio for each meeting is kept. A digital copy.

Ms. Stryker: Yes.

Mr. Lindenauer: Is everyone else good on the minutes?
Board: No comment.

Mr. Lindenauer: Can we take a vote on the minutes?

Board: All Ayes.

Mr. Lindenauer: The minutes from October 24,2024 meeting have been approved.

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Mr. Lindenauer: Now onto New Business.

Ms. Stryker: We also have November minutes.

Mr. Lindenauer: May I have a motion to approve the minutes from November 14th, 2024? Does anyone have any questions regarding them?

**MOTION:** Mr. Jantzi made a motion to approve November 14th, 2024 minutes as written with Mr. Egan seconding the motion. All ayes on the motion.

**OLD BUSINESS:**

Billiam Van Roestenberg/Liberty View Farm

SBL# 95.1-7-16.1 & 29.315 340 Crescent Avenue & 35 Palazzo Lane

Mr. Lindenauer: We have Billiam Van Roestenberg, Liberty View Farms appeal of the Building Inspector determination continuation of the meeting at the meeting of 10-24-24. Before we do anything on that Joe Egan was not present for the October meeting when all of this began.

Mr. Egan: I have gone over all of the documents and have spent over six hours doing it. I have listened to the recorder twice and I have gone over all of the documents pertaining to this. Over six hours of my time spent on this. So, I am up to speed to what is going on.

Mr. Hoyt: Mr. Egan you feel comfortable, you know the case well enough to participate and vote?

Mr. Egan: Yes.

Mr. Lindenauer: So, we do have a resolution that has been drafted if we could get a motion to introduce that?

MOTION: Ms. Loertscher made a motion to introduce the resolution into discussion with Mr. Jantzi seconded the motion.

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Mr. Lindenauer: I will ask Mr. Hoyt, who is council for the Zoning Board, to give a summary of the draft of the resolution that has been put forward by the Zoning Board.

Audience: Is this resolution available to the public?

Mr. Hoyt: Yes, it is.

Ms. Dembroski: Can I ask a question to why it says Determination rather than resolution. I should think a resolution to say resolution.

Mr. Hoyt: First of all, I would like to say that this is a draft. It does not mean anything unless you adopt it. Now that there is a motion and a second on the floor it is open to all for discussion. If a majority agree to modify this that is in front of you, that’s your prerogative. It is meant to be a guide. It is not meant to say this is the only thing you should do. What it does do is it tries to summarize the facts and why there may be disagreement on the resolution. I use that term in several ways. I don’t know if there can be a dispute on the facts. The facts came from the record. When I go over this in a minute you will see where we have gone in the record and established certain facts. Which then are recited and the board reaches certain conclusions based on those facts and then ultimately a determination. All of this though is just a guide, just a draft. Matter of a fact you didn’t want to vote on it tonight. You still have a couple of weeks left on your 62 days, although that will end right after the holiday. Like the 26th which I probably think everyone would like to put this to bed tonight. If there are any changes to be made, they can be made tonight voted on and tomorrow they get clean up in writing for circulation and filed.

Mr. Lindenauer: Before you go through it for the record, I just want to mention that this draft was given to all of the members on Monday December 9th. So, all of the Board members have had a chance to go look and review, so if they have some questions they can.

Mr. Hoyt: Thank you I meant to mention that. You are not seeing that as the chair has mentioned for the first time. There were some slight tweaks today just

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three (3) of them, I can highlight them. I have passed out to you who were not able to get todays e-mail with the new revised copy.

Mr. Mercier: Mr. Chairman, could you please let the audience know that this is a discussion for the board and not…. (cut off by Mr. Lindenauer)

Mr. Lindenauer: Yes, yes, surely. The board is now in the discussion phase of this resolution. The Public Hearing factor has been closed since November. So, we are not taking any comments or anything from anyone in the audience just from the people at the table.

Ms. Dembroski: Again, the Determination vs the Resolution.

Mr. Hoyt: Well, if you decide that it should not be a determination and if it is voted on it, it becomes a determination. Whether you call a Resolution or a Determination again if a majority feels strongly, it should be resolution instead of determination. I think you still you still owe a determination at the end of this process whether it is pro or con. We can come back to that point later on in more discussion.

Number One (1) recited the application, by the way came in very bare bones hand written August 22nd, his attorney supplemented it the night of our hearing on October 24th added some more narrative but the thrust was still the same.

two (2) and three (3) and four (4) and five (5) kind of set the stage where the property is two different zoning districts. The applicant is a tenant and the owner is aware of this has declined to participate which I think that is important. They had the opportunity and they declined. Properties in a flat hollow surrounded by single family homes situated on higher elevations, properties are situated in certified Ulster County Ag District and a portion of it does contain apple trees. Also, properties of a B&B and various out building and event tent that appears to comes in the spring and leaves in the fall. The applicant seems to been doing this for many years. The Zoning law does not define Wedding Venues, Banquet Facilities, Catering or similar venue, it just doesn’t. Now here is the interesting thing from the record of Nine to Ten years ago, this is all on what we could gather.

 Janice did a great job trying to make sure we were not missing minutes from that year but what we could gather is the use was not defined then same as now.

At that time nine years ago the code official Mr. LoCicero referred this matter to the Town Board per 110-11B and that is where a use is not even mentioned. It is

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not prohibited it is not permitted it is just not mentioned. That is this out door thing it’s just not mentioned. 110 allows the Town Board what to do. Do we call it a special use sending it to the Planning Board or do we say no its not allowed that is why we did not put it in there. This started nine years ago and then got off track. I do not know why although I suspect it was Ag and Markets letters that we refer to here in a moment. So again, the Planning Board had this in the fall of 14 and the Town Board had it in late 14. The Planning Board had it a year later in the fall of 15. Clearly from those minutes the Planning Board approved the B&B and if you read the minutes from August and September 15 it says several times this has nothing to do with the outdoor Wedding Venue it is right in the minutes. Hence that is why they only approved the B&B at their October meeting. The site plan that was signed mysteriously by the chair December 2, 2015 we cannot find any resolution authorizing her to sign the maps. That is another reason to have a do over in my opinion and the resolution states that.

Property got the Ag and Markets blessing in July 20, 2015, that is maybe a reason this thing got side tracked. They determined he was a viable farm based on his income and the town should not to shut him down or restrict him overly. He should be able to do it and that was nine (9) years ago.

They issued another determination a year later in 16 and told us about the famous 30 percent rule. The rule your wedding venue cannot exceed more than 30% of your gross agricultural sales and that is Ag and Markets

We did not come up with that. Certainly, nine years ago he must have met that test. Whether he meets it today that is probably for the Town and Ag & Markets to figure out. The site plan in December showed parking, operational notes with restrictions and complaints have come in fairly consistently since the last three years. Then we talk about the Code Official. What he did early 2024. Ultimately a stop work order in the middle of August that is what is being appealed to you.

Number thirteen (13) the Code Official had asked the applicant for his figures on the 30% rule. He asked for that on March 5 and he got those reports in July so there was a significant gap when he got them. He sent them to Ag & Markets. I’m on number fourteen (14) now. They sent an e-mail saying that the figures don’t match his tax returns the department can’t provide further guidance. The Town should “enforce their local zoning”. Not the kind of response you would expect from Ag & Markets. This board called a hearing on October 24th. You listened to

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many hours of testimony the minutes you just approved will be attached to this resolution and should also refer to the audio.

On the 24th we heard from 20 different people a chunk of them were friends, employees, supporters plus the applicant himself and his attorney. Some other comments came from adjoining area neighbors who testified to their adverse impact of noise and trespass and other late-night activities of the patrons of the venues.

You also heard from Chief Phil Sabarese who testified basically the same as his letter on September 2nd that you have in your record. Basically, they had an event up there and his first responders could not navigate. They could not get their trucks where they needed to, the ambulance people could not get around. They made other comments in that September 2nd 2024 letter about no fire extinguishers, extension cords etc.

Other submittals came in both from the applicant attorney and neighbors, up to November 5th, that was the end of the comments. We recite what Mr. Egan just cited about his due dalliance to get up to speed.

 Those are the facts as I saw them from the record and I do not know if the facts are in dispute or not but let me finish with the conclusion because that might be where there are some differences of opinion.

So, we reiterate that the Zoning Law has not changed. Unfortunately, it did not talk about it nine (9) years ago and it does not talk about it now.

The site plan interestingly, I mentioned before, I don’t see where it was authorized for the chairman to sign it on December 2nd. It may be that it was Ag & Markets opinion at the time, that you can’t twist this guy around, he is a viable valid farmer. Give this guy an expedited approval. I am speculating. You can’t find in the records where the Planning Board voted to have the Chairman sign that plan. Number three (3) this is probably the whole meat of this the Town Board should take this stuff up and figure it out. They are the elected officials. You are a Zoning Board; you are going to change the law in the town on a particular case on an appeal or even a variance. Shouldn’t the Town Board jump back in here? they are the elected officials let them decide should these venues be allowed or not and where and if so what’s the process?

My view the Zoning Boards run the risk of re-writing the Zoning Law in these Townships, because they feel like they have no choice.

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The only ability to operatethis farm arouse out of the blessing of Ag &Markets. The Zoning, we just talked about it, doesn’t mention the Wedding Venue.

Whether it still qualifies are questions for other to answer. Ag & Markets sent us a letter October 24th it won’t step back into this until the applicant has exhausted all of its local remedies. The site plan itself, I did not think the Board wanted to find that it was clearly in violation, but there is enough in the record to show that it needs updating clearly.

The parking according to the chief and the pictures we have on the record the parking is not per the site plan and there are probably some other issues.

October 27, 2015 Planning Board meeting, the attorney said that is when the Outdoor Wedding Venue use was approved. The minutes do not support that. It says the B&B was approved and the minutes from August and September say clearly the Planning Board was not approving the Wedding Venues. They probably just wanted to keep their hands off it, who knows speculation?

Lastly it is Type 2 exempt under SEQRA. It does not have to be sent to Ulster County Planning and if you adopt this or a modified version or whatever you do adopt. It is sent to the applicant, the Town Clerk, the Building Department, and the Town Board.

The Code Officials determinations are modified. He said go to the Planning Board. Well, they can’t approve a use that the zoning does not allow.

So rather than going that exercise you’re modifying that by saying no go to the Town Board for a 110-11b. The same thing they tried to do nine years ago to see what the Town Board thinks should be done. If the Town Board determines it can determine this is like a special use and send it back to the Planning Board. That is what they tried to do nine years ago. It just disconnected at the end and I cannot tell you why. The stop order that was issued remains in effect pending on the outcome of the future proceedings. We are at the right time of the year for the applicant. He is not doing venues now for another three four months presumably.

Hopefully the Town Board can if you adopt this or any flavor of it. Hopefully the Town Board can get this thing resolved before next season. When Mr. Diller issued his orders as soon as they appealed, they got an automatic stay on his order, which allowed them to ramie the events out to the end. That stay, one you make a decision one way or another, that stay wont last. Its only pending while you are pending. Long speech but no one can say we did not understand and I will now refer to the chair and open it up for whatever.

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Mr. Lindenauer: So, does anyone have any questions or comments either to Mr. Hoyt or the Board?

Mr. Egan: On this determination we make here, if we determination to send it back to the Town Board this could be say expedited? Or could be an alleged procedure could we somehow put in there that the board have like a time line if they cannot decide. The season comes up that they can function say till the determination should be made by a certain time. It has to be done quicker than say nine years go by and a determination still has not been made.

Mr. Hoyt: That’s a good point but my question is what would the remedy be if the Town Board didn’t obey by any deadline, you were to set?

Mr. Egan: Well, that’s a good question. Procedures drag on not by the fault of the applicant its part of democracy. They shouldn’t be punished for that. They should have a quicker determination.

Mr. Lindenauer: I think we just have to have a little faith in the Town Board. We do not have any weight to sanction the board if they take longer then what we feel fit.

Mr. Hoyt: We are directing the applicant to apply to the Town Board. That is where the time limit should be imposed. The applicant has to petition the Town Board within forty-five (45) days. Pick something reasonable versus the applicant can say well I am not going to do it. The Town Board can say well until we hear from you, we are busy doing other things. Does that sound like a way out of your issue?

Mr. Egan: Once an applicant presents something to the Town Board then there are time constraints for the Town Board.

Mr. Hoyt: Not really for a Town Board is different from your board and a Planning Board. Don’t forget they are the supreme legislative body. Very few people can tell them what to do and what laws to adopt. The answer is you are voted out of office if you don’t that’s kind of the answer there.

Ms. Dembrowski: You can’t put a time limit on this because Ag & Markets are going to have to put there input into this.

Mr. Egan: Ag & Markets are after fact though.

Ms. Dembrowski: The Town Board is going to request from Ag & Markets though.

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Mr. Egan: Right.

Mr. Hoyt: Their letter of October 24th is pretty clear, we were hoping they may weigh in. All we really have form them is the August 19th email. The October letter said we are staying out of it till you guys and ladies down there figure it out. I don’t know if that means through the Town Board or will they jump back in when they realize it is no longer through the Zoning Boad. Maybe they were waiting on your discussion I do not know.

Ms. Dembrowski: Why would the applicant go to the Town when… (Mr. Mercier cut in)

Mr. Mercier: When he has a signed site plan.

Ms. Dembroski: Yah. That’s what I don’t under stand how are you going to get the applicant go there.

Mr. Hoyt: You can disagree but I think the site plan shows the plan is questionable.

Mr. Mercier: Code 110.73A we are getting way off topic here. On code 110.73A we are limited to what we can look at. The only thing we should be looking at is his appeal.

What he is appealing is the decision of the Code Enforcement officer by stop the void of his site plan. That’s what he is appealing. Its even in his attorneys on record that you follow with us that’s what he is appealing. They are not touching the site plan. They are not asking us to make a decision on the site plan. What they are appealing is the stop work order that was issued for violating the site plan did not say what he was violating in the stop work order. That’s what Town Zoning 110-73 allows us to modify if we had someone here from the town or the building department step forward and say something but we didn’t.

We are limited to… (Cut off by Mr. Lindenauer)

Mr. Lindenauer: The Town asked for the records and they didn’t match and Ag & Markets (Cut off by Mr. Mercier).

Mr. Mercier: But that has nothing to do with it.

Mr. Lindenauer: Yes, it does.

Mr. Mercier: No it dosent. Limited to the appeal Larry. And or also on August 14th Kathy, I cant remember her last name, from Ag & Markets sent a letter to Ed Diller requesting what specific violations of the stop work order did Billiam violate. That’s on the record. Ok, there was no response to this.

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Mr. Hoyt: Well not in writing.

Mr. Mercier: All we can do is go by what’s in writing.

Mr. Hoyt: Don’t forget Mr. Diller said you go back to the Planning Board.

Mr. Mercier: Mr. Diller was not here.

Mr. Hoyt: Mr. Diller’s violation directed the applicant back to the Planning Board.

Mr. Mercier: For what?

Mr. Hoyt: Well, what do you think it was for?

Mr. Mercier: I have no idea. Its not written down in the stop work order. That’s what is being applied.

Mr. Hoyt: I think it is being inferred to get his site plan fixed one way or another.

Mr. Mercier: What are we fixing if we have a signed sight plan. He has a signed site plan we can’t prove what we have no information what so ever in the record. Ok. It was done illegally all along.

Mr. Hoyt: That’s a false statement.

Mr. Mercier: Ok well even if it is a false you have (cut off by Mr. Lindenauer) No No No No No! I am talking to an attorney with advice, ok.

Mr. Lindenauer: And I’m talking to you!

Mr. Mercier: So, you have 60 days from the approval of a site plan if you don’t agree with it. The Town would have to then file a Lawsuit against the Planning Board. Say that they over stepped their jurisdiction. In this case the guy operated since 2015.

Mr. Hoyt: Just parsing apart what you are saying, yah there is sixty-two (62) days actually thirty days (30) days to litigate a Planning Board approval not 62, 30. The approval was never valid in the first place. It doesn’t get valid because thirty (30) days went by and nobody litigated it.

Mr. Mercier: That’s why you have courts.

Mr. Hoyt: How do you know it was valid? The records show (Cut off by Ms. Dembrowski)

Ms. Dembroski: Unfortunately, there is a signature on a site plan. If I go to the town and they sign the document and giving me a signature, I’m assuming that whatever is signed is legit.

Mr. Hoyt: Did you read the minutes?

Ms. Dembroski: I did.

Mr. Hoyt: From the Planning Board August, September and October.

Mr. Mercier: We don’t have the authority to void a site plan.

Mr. Lindenauer: You are not voiding a site plan.

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Mr. Mercier: That is what his appeal is because what the stop work order would have done would have voided his site plan because it doesn’t state anything if he didn’t appeal. Ok, the stop work order would have been in place and he would have he wouldn’t have been able to operate under that signed site plan.

Mr. Hoyt: Well, no but (cute off by Mr. Mercier)

Mr. Mercier: Stopping a signed site plan.

Mr. Hoyt: The Town, everybody stop when the appeal was filed. There was a stay on everything except your decision. Once you make it (cut off by Mr. Mercier)

Mr. Mercier: All I know we got a legal brief here from their attorney that sent us from the chairman assigning thee. It even states here how the chairman did not have the authority to schedule the public hearing. Which he didn’t, it was never voted on by the Zoning Board its all in this document.

Mr. Lindenauer: Richard, could you speak to that please. Because it is allowed.

Mr. Hoyt: Ok so (cut off by Mr. Mercier)

Mr. Mercier: It isn’t allowed.

Mr. Lindenauer: Because they say that or because the law says it?

Mr. Mercier: Because the law says it. Because every time (cut off by Mr. Lindenauer)

Mr. Lindenauer: Because our council (cut off by Mr. Mercier)

Mr. Mercier: Every time (Mr. Lindenauer continuing to try and talk) every time

Mr. Lindenauer: Our council speaks to that exact moment.

Mr. Mercier: Every time, every time we have to have a public meeting do you or do you not ask for the board’s permission EVERY SINGLE TIME LARRY!

Mr. Lindenauer: Mr. Hoyt

Mr. Hoyt: He does that out of the courtesy because every meeting of this board is at the call of the Chairman.

Mr. Mercier: Even though

Mr. Hoyt: Will you please let me finish

Mr. Mercier: When it states in the zoning that the Public Hearing has to signed by the Zoning Board.

Mr. Hoyt: What’s your point?

Mr. Mercier: My point is I’m going through step by step what they filed we have nothing filed from the town.

Mr. Hoyt: No, you have actually have a pretty good summary of the facts in front of you.

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Mr. Mercier: Look you have a summary in front of you

Mr. Hoyt: Can I suggest (cut off by Mr. Mercier) can I suggest that Ms. Polidoro is an accomplished attorney, did a really good job of advocating for her client, as we would all expect her to do. So, some of what she says is actually factually wrong. In fact, if you read in one of her letters, she tells you on October 27, 2015 the Planning Board approved the outdoor venue. That’s not an accurate statement. The minutes as we have been through as you are finding in here if you adopt it the minutes clearly only did the B&B. I don’t know where she got that from its a point where you don’t believe everything that is thrown at you. You sit down and read all of the records and decide. Yah know some people push the envelope., what can I say.

Ms. Dembroski: But what happened when unfortunately, there were notes made and it says Wedding Venue on that site plan. That’s the issue. So, the applicant was led to believe that it was an approved thing. So, if it wasn’t legit what the heck did the write it on that dam site plan for.

Mr. Hoyt: Good question and for nine (9) years the operation was able to occur.

Mr. Lindenauer: With the site plan being violated are also some of the items that are brought in front of us is the number of (cut off by Ms. Dembroski)

Ms. Dembroski: Where is the documentation they were violated. That’s unfortunate.

Mr. Lindenauer: That’s when he wrote his determination and then he said this is your stop work order.

Ms. Dembroski: Unfortunately, they did not document it thoroughly. There should have been decimal readings, pictures with dates, and then we are just talking and our building inspector wasn’t even here to testify. No one from the town stood up and said I represent the Building Department and these are the facts. Which I really would have wanted to have. We asked and no one responded. So, we are only going on what is briefed in this record and is weak as hell.

Mr. Hoyt: I don’t know mam this is the record.

Mr. Lindenauer: Yes.
Mr. Hoyt: I wouldn’t call that a skimpy record. Mr. Egan has testified how long it took him to get through it.

Mr. Egan: Now when you look at this and keep going back to the site plan and the site plan is in question from the original statement of signature. If Larry here signs

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a document off of the Planning Board and none of us voted on it, it’s not a legitimate document. Now the question is we have no record that the person be authorized to sign that document to begin with. Signed or not signed without the authorization it is a null point. So now you’re trying to say to make a determination for something that was never really valid to begin with, because of failure of the system to do it properly.

Mr. Lindenauer: It also it does not cavalierly say well if its false doesn’t really matter. It’s kind of disingenuous Chris. Really, I mean you’re your saying (cut off by Mr. Mercier).

Mr. Mercer: Larry I been saying (cut off by Mr. Lindenauer)

Mr. Lindenauer: You are saying facts on things that are shown to be false it doesn’t matter if it has or not.

Mr. Mercier: I don’t set the time tables ok; they are legal time tables.

Mr. Lindenauer: Then don’t sit here and say even if its false (cut off by Mr. Mercier).

Mr. Mercier: They are legal time tables Larry. They are legal times tables and just like we have sixty (60) days to hear this.

Mr. Lindenauer: And as Mr. Hoyt has explained to you (cut off by Mr. Mercier)

Mr. Mercier: So (Mr. Lindenauer: Mr. Hoyt explained to you) So you have no evidence, you have no evidence that the site plan was done fraudulently um we are not even looking at the site plan.

Mr. Lindenauer: Over spoke Mr. Mercier: As Mr. Hoyt has explained the fact that it was not voted on

Mr. Mercier: Also continued to say (as Mr. Lindenauer continued speaking)

For some reason now we are trying to recreate somebody

Mr. Lindenauer:Makes the whole thing not even valid.

Mr. Mercier: It is in a protected Ag District.

Ms. Dembroski: Why didn’t we get that evidence? Why didn’t the town say anything?

Mr. Lindenauer: Yes, he is.

Mr. Mercier: He is in the protected (cut off by Mr. Lindenauer)

Mr. Lindenauer: When Ag and Markets was given the information to determine if he was in compliance, they said your numbers don’t match. Your tax returns don’t match the numbers you are giving us. That’s when they said they are stepping back. Enforce your Zoning and Ag and Markets are not going to do

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anything until all the administrative local remedies have been gone through. That is what we are here to do.

Mr. Lindenauer: So, to send it over to (Mr. Mercier cut in) So to send it over to your Town Board…. (Mr. Mercier continued to speak)

Mr. Mercier: So, in 2015 Ag & Markets stated by the town, unreasonably restrictions of the Farm operations is in violation of Ag and Market law #305A. That was a letter that was sent to Joe Croce and that is when Joe sent it back to Planning Board and said go ahead because it is a protected use under Ag & Markets.

At the time and sole protected and that came from Mike Lankton who is the director of Ag & Markets via Bob Sommers, who Mr. Hoyt knows is very thorough l on when he does all these write ups. Mr. Summers has now retired um you can’t turn back the clock without taking him back to court

Mr. Lindenauer: In 2024 when Ag & Markets was asked for confirmation on whether he is still in compliance

Mr. Mercier: You don’t know!

Mr. Lindenauer: That’s exactly what they said. We can’t determine because the numbers do not match!

Mr. Mercier: We don’t know, but that’s not our job! That’s not what the appeal is code 1110-73 we only have a limited view of the order.

Mr. Hoyt: No, you’re wrong

Mr. Hoyt. Read it again the Town law

Mr. Mercier: I’m sorry your right 1110-74, I’m sorry not 73. I was talking about the modification of the order.

Mr. Hoyt: I am familiar with the language the code drafter copied the state law 267

Mr. Mercier: I am taking about making a decision of the order (over talked Mr. Hoyt)

Mr. Hoyt: Put it right in there and said doesn’t it say in there, Mr. Mercier, that the Zoning Board can make whatever decision it felt should have been made. Doesn’t it say that?

Mr. Mercier: I am just reading 1110-74 we have a limited view. I don’t think the Zoning Board to be redoing this. All we should be making a motion whether there was enough information on the stop work order yes or no. If you believe there is

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enough information on the stop work order then by all means then send it and if you feel there is not enough information on the stop work order then we can

reject it. The town can start all over again whenever they get the new Code Enforcement officer. Go out and do the proper readings. Go out and take dated pictures and send them and then when they issue him a stop work order. They also issue him with a list of violation notice and court appearance. That way it takes it out of our hands and now he’s got a court appearance, that he has to go to court and remedy. That’s all the appeal is about it’s about the order.

Not whether we are going to try something that happened back in yah no 2015, its just about the order.

 It’s all I’m saying we don’t have to retry or its not us to make to determine something was right or something was done wrong. All I am saying is code #1110-74 states where limited the view of the order. That’s what it says. I think we have gotten side tracked because its an emotional topic. The guys been operating, I feel bad for the citizens that are complaining about the noise and also the ones who say they don’t complain about the noise. But our job is to remedy that order and if the order is correct then by all means send them.

Mr. Lindenauer: This still gives (cut off by Mr. Mercier)

Mr. Mercier: I’m just saying we don’t have to retry, I think it’s our job to

Mr. Lindenauer (still speaking while Mr. Mercier was speaking): and this still gives Liberty View the opportunity to remedy this situation.

Mr. Egan: Chris, you claim it is emotional, I have no stake in this at all other then what’s fact. So, you are the emotional one at the moment?

Mr. Mercier: You want to say it’s because I’m a farmer? Yes, I think it is

Mr. Egan: I’m not saying that

Mr. Mercier: No, No, No I’m emotional that’s what you’re saying.

Mr. Lindenauer: Yes, because you are raising your voice.

Mr. Mercier: No this is my normal talking voice.

Mr. Egan: You are the one somehow that is emotionally involved in this

Mr. Mercier: Because I know right from wrong and I think this is all wrong

Mr. Egan: We are not making any making a determination on whether or not the Code Enforcement officer is correct or not. We are passing it back to the Town so they can decide. We are not making changes (cut off by Mr. Mercier)

Mr. Mercier: No, I think we should have had a draft a week ago in the beginning of the week telling me how I should vote.

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Mr. Lindenauer: This is not telling you how you should vote.

Mr. Mercier: Is there another draft going the opposite way?

Mr. Egan: Do you have one?

Mr. Mercier: I am not the attorney I did not draw this one up.

Mr. Egan: Well, you did send this one out

Mr. Mercier: I am not allowed to send e-mails to the members I am only allowed to send to the Chairman.

Mr. Egan: Did you?

Mr. Mercier: No. He called me up and asked me. I told him I have not made a decision yet and the next thing I know I get a draft saying what the decision is.

Ms. Dembroski: It is obvious (cut off by Mr. Lindenauer)

Mr. Lindenauer: It is not saying what the decision is.

Ms. Dembroski: It says determination Larry. That is the only reason Chris is set off because it clearly says determination on the top of this draft. It did not say draft on the original copy it just said determination.

Mr. Jantzi: The email said draft.

Mr. Hoyt: I am sorry to interrupt to wrap my head around Monday, it said “draft, call me with questions.”

Ms. Dembroski: Yah, but the document itself says determination. If we are taking paper work as it is, again signed site plan, and taking paper work, minutes missing. So, if dates aren’t supposed to match up and things like that how are we supposed to get stuff correct? If this is not what was printed it really was on this day. That’s how this whole thing is a disaster.

Mr. Lindenauer: And what you are looking at the very top of it has on it the following resolution was moved by with no name, seconded by with no name, because none of this has been done yet. It is just the frame work

Ms. Dembroski: The fact that it was given to us as a determination, is the fact that we were being swayed

Mr. Lindenauer: It is given to you as the following resolution. The final draft the email said resolution it said draft.

Ms. Dembroski: Look at what the e-mail says. If you are making this a part of the record, it should have said resolution, possible determination. It says determination.

Mr. Lindenauer: Is this now a house keeping situation?

Ms. Dembroski: I’m telling you listen

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Mr. Lindenauer: is that your problem here? It is a matter of paper clip or stable? That where we are going with this?

Ms. Dembroski: In the real world we live in.

Mr. Lindenauer: Yes.

Ms. Dembroski: If the date is supposed to be the date it is supposed to be, it should be written. You shouldn’t assume. It’s just the printed date that’s our error sorry.

Oh, we signed a site plan we think it was approved, maybe not. But it’s not valid applicant this is what was presented to us. It’s a mess and then now we are supposed to (Mr. Lindenauer tried to speak) let me finish Larry let me finish I have a minute ok. This is what we were given to decide on and listen it’s not easy to sit in here.

 If the town came at me at my business and this thing, yah it was a mess, but come on you are supposed to be given the information and take it as is. I’m not supposed to take it as this is the determination. I guess they made their mind up.

Mr. Hoyt: How do you want to change it?

Ms. Dembroski: It should just say draft resolution. It should have said determination. My whole thing is about procedure and writing stuff the way it’s supposed to be and not assumed. Because this is how the record got destroyed in 2015.

Mr. Hoyt: Unless this is adopted its nothing. It is not a resolution, it is not a determination, its nothing.

Ms. Dembroski: I understand that.

Mr. Hoyt: It is a nothing document, if it’s not adopted.

Ms. Dembroski: If it’s a nothing document then what did you draw it up for?

This is my point. It said determination it was misleading we just wanted to bring it out not trying to get here nor there. Dates aren’t what they are, things aren’t what they are so how am I supposed to make a decision on that.

Mr. Hoyt: Excuse me. What date is not what it is?

Ms. Dembroski: All the dates of these violations were printed dates and you said in the record it’s a mess.

Mr. Hoyt: Its terrible.

Ms. Dembroski: Right

Mr. Hoyt: So, what am I supposed to do about that?

Ms. Dembroski: I get that he has to fix this going forward.

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Mr. Hoyt: Well, what I did was, I said to Ed what are all these? When did you issue that stop order? He said it was August 11th. I said it says print date August

15th. I said, I don’t know what to tell yah Ed. That’s the only one you issued the applicant has it, we all know what the appeal is.

Ms. Dembroski: If you go back and look in the record and look at these things. Now we are going back to 2014 and 15 trying to figure out what the Planning Board did or didn’t do. How do I know what they did or didn’t do back then?

If this isn’t what we did now, we have to make it clear going forward. If we kick this back to the Town Board, I mean I was being let to believe that this was a pre-determined thing, which I didn’t understand

Mr. Lindenauer: Who lead you to believe that?

Ms. Dembroski: You did when you polled the board

Mr. Lindenauer: I did absolutely did not! I specifically told you that we are not making any decisions until the evening

Ms. Dembroski: Ok again, I was led to believe that.

Mr. Lindenauer: By who?

Ms. Dembroski: With this paper work that said determination.

Mr. Egan: I can’t believe this paper work would sway you.

Ms. Dembroski: It’s not gonna sway me that way. I’m just saying as a person who is gonna read this, I guess they made their decision and move on with it. Going forward I want to correct the process so we don’t have to assume what nine (9) years what people were doing and if they wrote it down properly in the first place we wouldn’t have been in this mess. That’s all I am trying to say.

Mr. Lindenauer: In doing our due diligences to discover what is going on with this site plan and whether or not he is in violation of it. Finding that there was nothing done properly, there was no record of the board approving it back in 2015. Finding Ag & Markets has said we can’t tell you whether or not if he is in his site plan or not because his tax records do not match the records he has provided. Given all of that, that’s where we are.

Ms. Dembroski: I understand all of that but… (Cut off by Mr. Lindenauer)

Mr. Lindenauer: If you just want to dismiss all of that well. (Cut off by Ms. Dembrowski)

Ms. Dembroski: I’m not dismissing it (cut off by Mr. Lindenauer)

Mr. Lindenauer: In the totality we have to look at the full picture. The things that were done correctly, the things that were done incorrectly. Understanding that

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the gentleman has been operating for nine (9) years and has invested time, money and sweat and his life into it. I get that as well.

We are giving him a remedy now to go and say let’s get this done correctly so that I can eat properly, working the plant as its inactive. Let the neighbors know he is

doing it within his rights. Let Ag & Markets determine yes if he is a valid farm or not because it is in question right now.

 Let’s let all that happen but that’s not our job here. Our job is that avenue and he has that avenue by going under 110 -11B back to the town. Saying hey this determination that says I’m voiding I’m not here what I’m doing and let the town who has the ultimate authority on it decide whether or not it actually happened. That’s my piece.

Mr. Mercier: What do you mean ultimate authority on it, site plan?

Mr. Lindenauer: On how to move forward with it.

Mr. Mercier: Because I was saying on site plan it is Planning Board.

Mr. Lindenauer: So, they would send them to the Planning Board for a site plan review or not. The Town Board has the opportunity to do that we don’t have that opportunity to do that. We can direct them and tell them to go to the Town Board and let them yah know get their site plan back in order. If you are doing things your supposed to be doing then there is no problem.

Mr. Mercier: When I went into the code book the investigative authority on this is the Code Enforcement Officer which we don’t have.

Mr. Lindenauer: We did at the time.

Mr. Mercier: But we don’t have one to do the investigation and to see whether the Planning Board did it correct or incorrect. Then his notes or his determination on that. Then that would then be forwarded to us and then we would make a determination on his notice of determination whether it was correct or not. He is the one who does the investigation, which we currently don’t have. So, I don’t know how we, the Zoning Board, took up a nine (9) year investigation on something that was appealing a stop work order. Specifically, that’s stated that’s all he is appealing that is a stop work order. He is not appealing the site plan. All I am saying (Cut off by Mr. Lindenauer).

Mr. Lindenauer: I think what Mr. Hoyt has brought to light is the fact in 2015 this was not done correctly. (Cut off by Mr. Mercier)

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Mr. Mercier: How do we know that?

Mr. Lindenauer: There is no record that it was voted on and should be signed! In fact there is no plan. Just because it was signed it does not make it legal.

Ms. Dembroski: What!

Mr. Lindenauer: That’s what Mr. Hoyt said.

Mr. Mercier: If you sign something and in ten (10) years someone can’t find the minutes it automatically makes it voided?

Mr. Lindenauer: It automatically made it voided. It did that (cut off by Mr. Mercier).

Mr. Mercier: You don’t have any proof It was done illegally. That’s what the courts stuff is for.

Mr. Lindenauer: There is no record of it.

Mr. Mercier: That’s what the court system is for. That’s not what he is asking for.

Mr. Lindenauer: Then let them appeal that to the town.

Mr. Mercier: The appeal of the order we are not addressing the order. That’s what he is appealing. It states it in the code.

Mr. Lindenauer: The stop workorder is on … (cut off by Mr. Egan)

Mr. Egan: The site Plan

Mr. Lindenauer: The site plan. He is in violation of his site plan.
Ms. Dembroski: How?

Mr. Mercier: How? Let’s say he too, that stop work order, ok, and went in front of the Planning Board to open up their case, they have to have the violation notices on that stop work order or what he violated.

Mr. Lindenauer: That’s for the Planning Board to determine not us.

Mr. Mercier: There are no violations on the stop work order. He did not follow through with his paper work.

Mr. Lindenauer: It says violation of the site plan.

Mr. Mercier: What’s the violation?

Ms. Dembroski: How? What’s the violation?

Mr. Mercier: That’s what he is appealing. What’s the violation?

Ms. Dembroski: That’s what he’s supposed to look at.

Mr. Mercier: That’s what Billiam and his attorney submitted to us and then Ag & Markets sent a letter to Ed Diller on August 14th asking that same specific question. From Ag & Markets what is specifically in violation because it is not

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listed on the notice. Even Ag & Markets asked and they were never sent a response. So, the applicant who is appealing, because he is allowed to, is asking

on the site plan what’s the violation. You have Ag & Markets asking what is the violation. Here we are arguing and we don’t know what the violations are because they are not listed.

Mr. Lindenauer: Mr. Diller had many notes.

Mr. Mercier: Notes are not on the official document of the stop work order.

Mr. Lindenauer: Many notes about the parking, many notes on the (Cut off by Mr. Mercier).

Mr. Mercier: That is part of the remedy. Its over and there are no cars there it is remedy. Its in order to remedy.

Mr. Lindenauer: Chuckled

Mr. Mercier: That’s why they are notes of violation. They are separate from the stop work orders Larry.

Mr. Lindenauer: So just burn it down and then there is nothing to remedy, I guess.

Ms. Dembroski: To correct this in whole (over spoken by Mr. Mercier)

Mr. Mercier: Just call the vote you already told us how it’s gonna be. Just call the vote and get it over with. I have baking to do.

Ms. Dembroski: Going forward this has to be a lesson for the town. Whatever the vote this is gonna happen. You need the document make sure the date is correct, make sure it is legit, state all the details, and we can avoid all of this. Things were done half hazardly.

Mr. Lindenauer: September 3, 2024, from the Code Enforcement Officer, the violation of Town of Plattekill, Code ordnances 110-68, permit requirements and then there is a paragraph discussing it section 105 and subsection 105.4 20-20. New York State fire Code section 401 and subsection 401.8 and 401.8 interference Fire Department operation. So, there are several documented orders to remedy.

Mr. Mercier: Larry just call the vote! We already told how it’s gonna be. Just call the vote.

I make a motion we close discussion and let’s get done with this.

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Mr. Hoyt: Mr. Chair I would like to revisit the one comment that I did hear that proposed the language change to the draft. Mr. Egans comment I would like to come back to that before a vote has been taken. Does a majority of the board want to establish this a dead line for at least the applicant to apply to the Town Board? I’m not sure if you demanded a Town Board response. My question to the two members that made the motion, will they amend the motion for the time change to whatever you want to make are far as timing? I am on the last page

the determination, directing the applicant to apply to the Town Board, should that say within so many days? If so, what do you think is reasonable?

Mr. Jantzi: When is the first Town Board meeting of January?

Mr. Hoyt: Application, there is no application under 110-11. Mr. Van Roestenberg writes a letter explaining he is in front of the board on this direction and makes his case. Well over again to the people, to the people that have the power to the people who have the power if this should be allowed or not. You can put in 45 or 60 I mean I don’t know.

Mr. Egan: With the holiday I would say 60 days.

Mr. Hoyt: 60 days. Now will the two folks Judy and Bruce make a motion to amend the motion to add in the determination that he has to apply to the Town Board within 60 days?

Ms. Loertscher: I agree to amend the motion.

Mr. Egan: So, do I.

Mr. Hoyt: If so, we got that, are the any other amendments to any of it, a majority would like to see?

Ms. Dembroski: Can we make an amendment that he has to go under Ag & Markets review?

Mr. Hoyt: We can direct that but you know what they are going to say. Mr. Van Roestenberg you have to exhaust your remedies locally they already said that.

I hate to put the man in a position that we are already making him go do. We already know he is not going to do. The October 24th letter Is pretty clear.

Ms. Dembroski: Wouldn’t this hearing, would that qualify for exhausting (cut off by Mr. Lindenauer:

Mr. Lindenauer: He still has the Town Board he has to go through.

Mr. Hoyt: Good question. But certainly, if you make a ruling tonight that takes this board out of the picture, that’s one less local board that they can possibly

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change something down the road. I think the Town Board is the only board with authority. Planners don’t have it and if you decide this and get it off of your plate you won’t have it.

 Maybe Ag & Markets will request the Supervisor Mr. Depew, step in now and help them as opposed to waiting. Who knows. He is the supervisor of the town you would think they would be more responsive than if Rich Hoyt called them up. You know what I am saying? It’s another way to get the processes moving.

Mr. Lindenauer: If you want to have that included in, it’s just another step for Liberty View to have to jump through but that’s fine we can request them to go to Ag & Markets for review.

Mr. Hoyt: Urge the Town Board to get the opinion from Ag & Markets. You can put that right in the determination on the end. I don’t think you can force them but you can recommend and urge them. Maybe they will show that to Ag & Markets.

Mr. Jantzi: I think his stuff, if he starts over again, his stuff is going to have to go to Ag & Markets any way.

Mr. Hoyt: Unless the law has changed, Ag & Markets is solely his life line. It was his only life line nine (9) years ago. The whole issue is, is it still a life line? I think this board should defer to Ag & Markets and the Town Board. Why are you guys deciding if he is a farm or not?

Ms. Dembroski: He can’t make that determination.

Mr. Hoyt: Your almost being asked to if you agree he’s legit under the zoning. He is only legit if he’s a farm operation. So, the first test before you get to 30 %, first test, are you a farm operation? Nine years ago, he was. Is he still today? That is the question. Which I don’t think this board could or would want to answer. Ag & Markets was no help. We tried. Maybe they will listen to the Town board.

Do you want to add in the Town Board is urged to get Ag & Markets involved as soon as they can?

Ms. Dembroski: Yes

(All Board Members agreed)

Mr. Hoyt: Yes, this is another thing you will agree to?

Mr. Jantzi: Ag & Markets urged us/urged him to try and figure out something out before they would do anything so we will urge it back.

Ms. Dembroski: The reason he got the original approval was because he was allowed in the Ag district. So, if he does not qualify, he can’t continue as existing.

Mr. Hoyt: Right

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Mr. Lindenauer: The Land owners have stepped away from the issue. They don’t have a plan in it so it is strictly up to Liberty View.

Mr. Hoyt: The Ag & Markets are the expert they came down here with Bob Summers nine (9) years ago. They saw what was going on and they thought it

meant the requirements. So, the operative question is if they came down now would they have the same opinion.

That’s really the issue. I was disappointed in the October 24th letter, I thought they would have helped us but not now.

We are adding that the Town Board is urged to involve NYS Ag & Markets as soon as they receive the application? Something like that?

Does that work?

Mr. Jantzi: Yup

Ms. Dembroski: Do they have an existing? Because it says here the balance of the property includes a single home that is a Bed & Breakfast, various outbuildings and other improvements. Improvements is an issue. He could have made improvements in the nine (9) years that was not originally done (cut off by Mr. Hoyt).

Mr. Hoyt: He has done a wedding; I don’t know what you would call it an Arch yah know

Ms. Dembroski: The tent is an issue that was raised.

Mr. Hoyt: We weren’t even allowed; I didn’t even try to get on the property.

Obviously, there’s other things out there. They may not be buildings. I noticed an arbor from a neighbor’s property

Ms. Dembroski: But is it in the original foot print of what he got approval by. Based on that site plan if there had been improvements that weren’t on that site plan then that’s something for the Town Board to make out.

Mr. Lindenauer: Well, let’s hope the Town Board, if he decides to appeal to them, does their diligence on those items.

Mr. Dembroski: What happens if he doesn’t appeal to them?

Mr. Hoyt: Well, I will leave the Enforcement Office to decide. I think if this board adopts it, given every opportunity, to have another the people who really have the power to make the rules. So, if he decides not to avail himself of that opportunity, which I think it is, I think he does have that in this draft decision.

Mr. Mercier: So, his signed site plan means nothing?

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Mr. Hoyt: Look you can vote no.

Mr. Mercier: No, I was just asking. Because if he takes the Town to court, he is going to say I have a signed site plan.

Mr. Hoyt: The judge might say show me the resolution authorizing Chairman Hilbert to sign it.

Mr. Mercier: I’m just (cut off by Mr. Lindenauer)

Mr. Lindenauer: I would say that’s beyond us here. It’s for the Town.

Mr. Mercier: Well, what I am saying if we are sending him back, we don’t have the authority to void a site plan. Is that what we are doing?

Mr. Hoyt: Do you notice in here, where in here it says site plan is null and void. You didn’t see that it’s not in here.

Mr. Mercier: We are just saying that in our verbal conversation, we are just saying that nothing back then, we can’t find notes nothing was legally done.

Mr. Hoyt: I’m saying we questioned the authority of the Chairman to have signed that plan December 2, 2015. I’m sure if Ms. Polidoro, if she found the minutes, she would have shown them and centered that around all of her submittals. Instead, she says in the memo you cited that of October 22 of 2015, they approved the site plan that’s not true. They approved the B&B, the minutes are clear, there is a motion and a second to approve a B&B. Nothing about Weddings.

Ms. Dembroski: Being since Cindy is still on the Planning Board and I mean she signed it no one asked her. That would have been a really great thing to have, as testimony again as to why this did or did not happen.

Mr. Hoyt: Do you think she will even remember? If she did, she will probably say we got a letter from Ag & Markets telling us we can’t twist this guy around. That’s is my speculation.

Ms. Dembroski: She wouldn’t have signed a document if she wasn’t authorized to sign.

Mr. Hoyt: I asked Janice and her people looked three times to make sure there was no missing minutes. I figured oh they must have approved it in November 2015. Nothing.

Any other edits to the Draft? We have made two of them.

Mr. Lindenauer: Anything else?

(Silence)

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If not, I will make a call to order.

Mr. Hoyt: Motion on the floor, poll the question.

Mr. Lindenauer: With the motion on the floor, it seems like everyone has had their say. I will call to a vote to adopt this Resolution as amended.

Mr. Egan: I will second that.

Ms. Dembroski: We are not voting on this Resolution I thought we were voting on whether or not the Zoning Board Officer had the authority. (Cut off by Mr. Hoyt)

Mr. Hoyt: You are casting one vote tonight. It’s either aye or nay on the amended document in front of you.

Mr. Lindenauer: Basically, should we read that last paragraph or is that necessary?

Ms. Dembroski: That is not what we were tasked with at that hearing. That is why I am confused.

Mr. Hoyt: I am confused. You need to make a decision one way or another. You can all vote no you all can vote yes. You can split the board. That’s your prerogative. But you have to make a decision or you are going to have to come back here the day after Christmas or your time will have expired.

Ms. Dembroski: What are we voting on? This resolution?

Mr. Hoyt: With the two amendments that were agreed upon on the two people who made the motion and seconded it and now the board is being asked to vote.

Mr. Lindenauer: This last paragraph he is talking about.

Mr. Hoyt: If you want me to re-read it I will.

“The Code Officials determination’s (plural, because there are so many of them), hereby modify to direct the applicant to apply within sixty (60) days, (we’ve added), to the Town Board for Zoning Law section 110-11B to establish for an Out-Door Wedding and other Venue use should be allowed as a special use in these districts. That’s right out of the statue. If the Town Board so determines then the Planning Board must process the matter either as a special use or as per other authorities described by the Town Board. If the Ag & Markets comes in and give the man his expedited site plan approval and not make them get a special use, I want to give the Town Board an out. That why there is an or there.

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Finally, the stop work order issued on August 15th will remain in effect depending on the outcome of those further proceedings. We have added the Town Board is

urged to contact NYS Ag & Markets as soon as possible upon the new application. So that will be your proposed determination.

Mr. Lindenauer: On that, we will now take a vote: Aye or Nay?

Ms. Dembroski: So, the whole stop work order thing does not exist. I just want to make it clear that’s what we were casting that on the last meeting. Now this is something totally different. I just want to know where it come from. Is that superseding? This is a modification of a stop work order.

Mr. Hoyt: No, it says the stop work order remains in effect depending on the Town Boards proceeding. If a majority of you adopt this, the stop workorder remains in effect.

Mr. Lindenauer polled the board:

Judy Loertscher: Aye

Chris Mercier: Nay

Bruce Jantzi: Aye

Larry Lindenauer: Aye

Joe Egan: Aye

Helene Dembroski: Nay

By a four (4) to two (2) vote the Code Enforcement Officers determination as modified is set to further on.

Mr. Hoyt: I will do is, I will add on to the roll call vote the ayes, the nay’s, add in the two amendments, and I will get it back to Janice if not tomorrow, Monday. Janice will then send it to the applicant and file it with the Town Board and the Town Clerk.

Mr. Lindenauer: We have no vouchers; we have no correspondence. Someone wants to make a motion to close the meeting we can do that.

ADJURNMENT:

**MOTION:** Ms. Dembroski made a motion to adjourn the meeting at 8:08 pm with

Ms. Loertscher seconding the motion. All ayes on the motion.

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Respectfully submitted by: Janice Stryker, Zoning Board Clerk