

August 24, 2021

To: New Hempstead Village Board

From: Justin Schwartz, 55 Westminster Way, New Hempstead

Re: "PUBLIC HEARING ON AMENDMENT TO THE VILLAGE OF NEW HEMPSTEAD ZONING CODE TO ADOPT THE ZONING DESIGNATIONS ESTABLISHED IN THE UPDATED VILLAGE OF NEW HEMPSTEAD ZONING MAP"

They say the road to hell is paved with good intentions and I hope that is not happening here. I know that the Village Board has done a lot of work and has good intentions and wants to pass good zoning but when its time to dot the I's and cross the t's everyone on the board seems to have lost the stamina needed to bring this home.

I am deeply disturbed to have received notice on a Friday evening about a public hearing on Tuesday night regarding documents that are not posted on the Village Website. I could find no notice published in the Journal News for the past several weeks to mid July. This is just not right at all. The website has no details at all about this hearing. The calendar does not have any more information either. No notice, no details, no documents, nothing.

We may agree or disagree about the recommendation in the Comprehensive Plan, but we must agree as to the necessity for the Village Board to act transparently and professionally and to comply with all New York State laws regarding the procedures necessary to properly adopt a new Comprehensive Plan and pass an update to Village Zoning Code and the Village Zoning Map based on the Comprehensive Plan. Those processes include environmental review and County Planning GML review. The lack of environmental review of the Village Comprehensive Plan and the Updates to the Zoning Map and the Zoning Code to reflect the purported Comprehensive Plan is concerning to me, the failure to send a full referral to County Planning is a problem, and finally the failure to make the requested corrections of County Planning prior to public hearings speaks to an abject failure to adhere to basic legal responsibilities of the Village Board.

I am asking the Village Board tonight to take a breath and resolve tonight to adjourn the public hearing and focus on spending a couple of weeks to get its ducks in order with respect to the Comprehensive Plan and the Zoning Map and the Zoning Code.

Based on listening multiple times to the "motion" passed at the March 18, 2021 meeting it is entirely unclear what exactly was passed already and certainly the Village Board should start the meeting by explaining what was actually passed at the meeting of March 18, 2021 other than its intent to pass future local laws that are "codified". Below are a list of failures that I have identified in the attempts to pass the Comprehensive Plan and also in trying to change the Zoning Map and Zoning code. We must fix the problems.

The stated intent of passing new zoning maps and new zoning code is to implement the recommendations of the Village Comprehensive Plan but that plan was not passed properly itself. The plan is meant to be the foundation for the new zoning code and zoning map and yet the Final Version of the Comprehensive Plan is not even accessible to the public for review and reference for this local law public hearing. The time was inadequate to obtain the documents being considered tonight under FOIL in addition to the Comprehensive Plan.

The Comprehensive plan foundation must be solid before proceeding. Sometimes the board need to redo the process when it screws up as has happened here. It doesn't make the over effort bad, but it must be fixed before moving forward.

I ask that the Village Board take actions to:

1. refer a full statement of all the materials relied upon for the passage of the October 27, 2020 version of the Comprehensive Plan (or newer) to County Planning and make it available to the public – taking the opportunity to make any necessary corrections to address prior public questions or comments before doing so;
2. as part of the full statement. make all the final SEQRA documentation – including any analysis relies upon - related to a finding of Neg Dec or Pos Dec on the Comprehensive Plan available to County Planning and the Public;
3. reopen the public hearings on the Comprehensive Plan – hopefully one last time because hopefully all questions, comments and requested corrections will be addressed and the SEQR materials will be available for review;
4. have a discussion of the County GML in the Village Board Meeting of any planned overrides of the County Planning recommendations on the Comprehensive Plan prior to adoption.
5. make a supported SEQR determination on the Comprehensive Plan;
6. make a resolution to adopt the corrected Comprehensive Plan subject to the SEQR determination and the various overrides of County Planning Comments that remain after final correction.

THEN DO ALL OF THIS AS WELL FOR THE LOCAL LAW TO AMEND THE VILLAGE ZONING CODE AND VILLAGE ZONING MAP.

### **Please Be Transparent**

Despite protests again and again at Village meeting regarding how difficult it is to post documents to the website, the truth is posting a dropbox link to the documents on the website is a trivial effort and should be done to ensure transparency and build public trust. If a dropbox link can be emailed, it can be posted to the website. If the Village has its ducks in order, this effort to post the Final Comprehensive Plan and all comments and replies related to that version should be trivial.

This posting should also take place with respect to the final Zoning Map (with the changes requested by County Planning) and the Zoning Code Amendment. The Local

Law for Zoning Code should be posted in its final form, again with necessary corrections that address the County Planning GML concerns, that is ready for filing with the Department of State.

This final corrected version should be made available to the public with the Comprehensive Plan and all SEQRA materials necessary for a SEQRA determination for a public hearing that is properly noticed.

The goal is to ensure that the Village Board posts final documents ready for approval to public review and in the process to make all analysis regarding impact and/or lack of impact available to the public to review in a public hearing that has been properly noticed.

### Fix Village Board Failures

1. The Village Board failed to properly notice a public hearing on the Comprehensive Plan being presented for adoption. The minutes of the August 18, 2020 meeting state that notice was in the Journal News on August 5, 2020 and it does not appear there. A vast number of people I have encountered had no idea that there were any meetings on this topic. Your reliance on the Village Email does not meet the mandated public notice for this important task.
2. The Village Board failed to provide the public with a public hearing on the version of the Comprehensive Plan that was passed. While the Village Board has had multiple opportunity for public input into the preparation of the Comprehensive Plan that was passed, the Village Board did not have a public hearing on the actual Comprehensive Plan that actually was passed. This is required by Village Law § 7-722 (6). Even today the version posted on the website is dated September 9, 2020. The minutes of the board meeting of October 27, 2020 stated the board adopted a Comprehensive Plan with the same date. If the Village Board has a plan dated October 27, 2020 before it at the meeting of October 27, 2020, it should have scheduled a public hearing and published public notice before adoption.
3. The Village Board failed to make a SEQR determination prior to adopting the Comprehensive Plan. A comprehensive plan is a Type 1 action that is presumed to have an environmental impact and its impacts are generally reviewed in an GEIS after public scoping. Here the Village Board failed to even justify a Neg Dec. There is apparently no signed and filed SEQR determination and no resolutions making such determination. In fact, what is totally disturbing are the multiple comments made by Village Planner in multiple meetings about how SEQR would be done "later" when the projects were being considered. That approach is entirely inconsistent with SEQR requirements.
4. The Village Board voted to approve the Comprehensive Plan without discussing the Rockland County Planning Boards GML recommendations, and making determinations as to whether to correct the plan or override the

- requested changes. Here, there was no mention of the County GML review in the resolution adopting the Comprehensive Plan.
5. The Village Board did not send a full statement in its referral to County Planning. The County Planning comments of August 17, 2020 were made on a version of the Comprehensive Plan that predated July 17, 2020. This means that the County did not receive either the September 9, 2020 version nor the October 27, 2020 version. The corrected version of the plan and the FEAF and any other supporting documents should have been sent to County Planning for review prior to adoption.
  6. The Village Board failed to respond to the letters submitted by the public in August including my own, which I am attaching.
  7. The Village Board published a faulty notice of a public hearing on “February 23, 2020” in the Journal News on February 9, 2021. As noticed, it was for a “a local Law to Amend the Vilage of New Hempstead Zoning Map to match what was adopted in the Village of New Hempstead Comprehensive Plan.” This notice does not mention that the local law would also amend the zoning code. The only “local law” that accompanied the Zoning Map sent to County Planning was an 8-page document that was not in local law form and failed to have language to adopt the new map. The new zoning map includes references to new zoning designations that can only be enacted through a local law to amend the zoning code and no such local law was in the record to adopt.
  8. The Village Board has failed to post draft or final minutes since March 1, 2021, which includes the prior meetings and public hearing on the zoning code amendments. Why not? Some minutes refer to the documents that were submitted to the record and these should have been shared with the public along with RESPONSES!!

It is utterly unclear what did or did not get passed at the March 18, 2021 meeting. After the Executive Session the Village Board was in such a mad rush to just approve anything that the Town Attorney recommended adopting the new Village Zoning Map even though it was apparent that there was no local law prepared to do so. The attorney recommend that the village board then later adopt the amendment to the Village Zoning Code. This recommendation was irrational since the Zoning Map has new designations that aren't even in the zoning code without the amendments. And it is not legal because the paperwork before the Village Board did not comply with even the most rudimentary basics of a local law ready for passage. Rather than just adopt the zoning map, a sketchy motion was made to adopt some discussions and there was no reference to a specific resolution or a specific local law or anything of the like. There has been no local law filed with the Department of State other than LL 1-2021 and LL 2-2021, which are unrelated.

### Don't Rush

If something is worth doing, its worth doing right. The residents of New Hempstead want the Village Planner to more clearly enumerate the impacts of the changes and that

doesn't mean calling it all deminimus. If the changes are minor then just spend the time to be specific about what can be built before, and how this will be changed.

Everything doesn't need to be rezoned in one shot.

Just because the Comprehensive Plan discusses possible future considerations for rezoning that does mean that the new zoning map has to include every single recommendation.

The actual rezoning of specific parcels or groups of parcels should be done more systematically after the zoning code modifications have been finalized and the Village should mail the adjoining neighbors specifically. Arguable the vast majority of the villagers do not know about these proceeding and that is just wrong.

There shouldn't be surprises going forward. If you want to protect the village from future lawsuits, do things right.