**TOWN OF WINDHAM**

**ARCHITECTURAL REVIEW BOARD**

371 State Route 296

P.O. Box 96

Windham, NY 12439

**Date:** August 20, 2020

**Present:** Chairperson – Dave Weiman

Members – Ed Shanley, Lisa Jaeger, Tom Poelker

1 Absent

1 Vacancy

Recording Secretary – Janine Soule

**Absent:** Member Claudia Lane

**Also Present:** Karen Hansen, Barbara Rittenhouse, Bill MacGregor, Karen and John Malen, Claudia Holmok, Jonathan Gross, Brendan O’Brien, Kelly Primiano, Cynthia Bruno, Brian Hammel, Mike Ryan Mountain Eagle, Robert Rhoades, Demosthenes Hatzoglou, Marilyn Carreras

**Open Meeting:** On a motion by **Chairperson Weiman**, 2nd **Member Shanley**, 4 in favor, 1 absent, 1 vacancy, the ARB Meeting was opened at 7:55 PM.

**Minutes from August 6, 2020:** The Minutes from August 6, 2020 were presented to the Board. **Chairperson Weiman** states that the Board will approve all the minutes from August 6, 2020 at the next meeting, September 3, 2020 after the Board has been able to review them thoroughly.

**Chairperson Weiman** calls Jonathan Gross up to the Board. He states that he has heard they have some news for the Board. **Jonathan** says they have decided to withdraw their application for the Site Plan. We will be finding a new location and I am willing to sign that tonight. **Chairperson Weiman** explains that the Board does not need a signature because they are on record withdrawing the application. **Chairperson Weiman** goes on to say; with that, I am going to make it clear that we are not opening the Public Hearing for additional comment. We will give you a chance to say your piece Marilyn. **Chairperson Weiman** moves that they close the Public Hearing for the Mountaintop Cares, 2nd **Member Shanley**, 4 in favor, 1 absent, 1 vacancy. **Marilyn** states her objection. **Chairperson Weiman** says he understands that. That is fine but the business before us is done. So being that this has been withdrawn there is no need to approve or deny it. We will keep it in the record that it has been closed. Marilyn you may have the floor for a few minutes. **Marilyn** states, we just want to get the record clear, that it is closed. Marilyn speaks to Jonathan, we are happy about it. We thank you for doing what you have done. Now she addresses the Board, I have submitted a legal brief that is in your file. I would recommend that you just look at it because a lot of work went into that. You guys should really know what is going on even in Site Plan Review. There was a lot of things over looked. The Town should know that there were a lot of erroneous answers put on the application. They were misleading and EIS was misleading. **Marilyn** explains why the community was upset, one of the problems is, you have a good vision, it is a wonderful vision. I do not know how realistic your vision is. **Chairperson Weiman** interrupts, that is literally not our concern as a Board and I realize you are on a roll but please keep in mind we have no zoning and Jonathan does not need to be lectured over this. The group has agreed to relocate. **Marilyn** says it is not offensive to him and I think he sees we are trying to help him; we are trying to work with him. **Chairperson Weiman**, I understand. **Marilyn** thinks he wants to see what the problems are, so that is what she is presenting. **Chairperson Weiman** says that is fine and that is a discussion that honestly does not need to take place in my boardroom. **Marilyn** interrupts with, it is not your boardroom, this is our room. **Chairperson Weiman**, as of right now it is my boardroom. **Marilyn** says we are the taxpayers here, you work for us. **Chairperson Weiman**, Ok counselor let us say we played this out and denied their application, would that preclude them from operating? **Marilyn**, no they can do whatever they want they would just have to face this next time. **Member Poelker** breaks in and states that the Board should have accepted the petition and presented it to the Town Board. **Chairperson Weiman** ask Marilyn, you have read through the Site Plan Law, what do you think gives us the legal authority to deny any business, not just Mountaintop Cares, any business to operate within the Town of Windham. **Marilyn** states that he is on the wrong track because the issue is if the Board read the directions and if they had read what the application and the EIS says, there are certain boxes that you have to fill out and answer yes to. **Chairperson Weiman**, The SEQR Law is not intended to take the place of zoning regulations. **Marilyn**, no, you are absolutely wrong with that because you read the Comprehensive plan. Maybe you have never read it. **Chairperson Weiman** says the Comprehensive Plan in not the SEQR Law. **Marilyn** says let me finish, the Comprehensive Plan is the Primary Law, it is common law that is recognized in courts of law. She states that it is the common law of Windham. In the Comprehensive Plan, the main thrust and the main issue becomes this Historic District and the beauty of Windham. Plans are supposed to be made surrounding that value. That the citizens of the Town of Windham put down in the common law, which is the Comprehensive Plan. Which, they are now updating by giving people the opportunity to complete surveys. What do you want this Town to be, that is what the Comprehensive Plan says. Now the Site Plan Review expects the person who is making an application to have first read the Comprehensive Plan to see if it comports, **Marilyn** states, you have not read it. **Chairperson Weiman** asks what section of the Site Plan Review Law states that. **Marilyn** says look up all the directions for the Site Plan Review and all the directions to a, b, c, d, e, f, read it. And that is what people are supposed to do before they even submit something to the Site Plan Review Board. They are supposed to see if it comports, if it is an issue or a non-issue, or if it does not comport. The Site Plan Review when you answer those questions has in mind the Comprehensive Plan. See, you did not even know this. **Chairperson Weiman** says he has read the Site Plan Review Law. **Marilyn** responds with, you have not been doing this, but that is what you should have been doing. **Chairperson Weiman** – I will tell you what, **Marilyn** interrupts, I want to finish, so in this case the EIS and the application were not properly filled out. The answer to know was it an excessive use from what it was before, should have said yes. Just because it is commercial to commercial does not mean you by-pass that. There is an excessive use, before it was a mortgage building, it was not even a bank and it only had 2 – 3 cars at a time. This gentleman planned to put in essence, a community center where there was going to be families, where there was going to be many cars. You know that is an excessive use. So automatically, that requires an inquiry and it was not made. That was my objection. We need a system that is coherent, that is stable and that is done the same way each and every time. No special favors for anybody. **Chairperson Weiman** Well I hope you would push the Town Board to provide zoning regulations that would allow us to do that. **Marilyn** – That is something else that has to come and that will come but right here in this case you did not need the zoning regulations. **Chairperson Weiman** – Well I did. **Marilyn** states, well you have the Architectural Review Board. **Chairperson Weiman** – I understand that Chairmanship is going to be coming open shortly and I would hope that you would volunteer to come and sit on this board and share your experience. **Marilyn** – I will certainly consult with people. I am retired. I have been working 45 years. I do not know now if I could do that but I will be open to consult at anytime. I will sit right there next to somebody if they want. **Chairperson Weiman** – the offer is there. Marilyn has a letter from that the firemen they wanted to submitted stating that he is not in favor of this. She explains that they just want the file complete. **Chairperson Weiman** asks Jonathan if he wanted to say a word. **Jonathan** – First of all I do understand your passion and some of the people here that I have seen come. You know there are certain things that the government just cannot do. It’s got to the people, it’s got to be volunteer groups, it’s got to be citizens stepping up and I think that is what you are doing. Hopefully we have taken it out of the realm of government and we have put it into the realm of what human beings and people that live close to each other can do. First of all, I except you are passionate about this, the fears and the concerns are the reason that we chose to move is that, we honestly felt that those concerns had, there was enough legitimacy to it for us to have to listen. So we are moving. Now we are hoping that we can take it out of what has happened with the government and invite you in and anybody that is here to come in and speak with us, meet with us, help us chart a new course. And the world of recovery is challenging, it is a moving target. People are suffering. People are dying. That is the truth and if you are in the world that we are in you see it all the time. So it is hard not to act. And the thing that I can say as I was listening to you speak and I appreciate it, it is like a family and if you have a kid that you cannot control, you do not know what they are doing, you are trying everything, nothing is working. The world of recovery is a lot like that. It takes a family to make it happen. Our mission does not work unless there is a community behind it. We also understand the fears and the concerns about being near the school. So our Board of Directors recognized that we had to do something to get the Town to listen to us. We did a poor job messaging, he agrees. It is very possible we did not fill out the form correctly, do not know, who knows. Not important at this moment. So this is me asking you or anybody that is here, come speak to us. We need to make this work for the community, because people do need it. And we will listen, he is not just saying those things. **Marilyn** says it is not going to be Windham proper, Windham Hamlet. **Jonathan** says, I think the choice is going to be up to those of us that have the organization and we will listen to everybody. **Marilyn** – well lets see how realistic you are. You also said that you are going to give up this application but you are going to continue counseling and your cheerleading type thing. Where are you going to do that from and how. Is it going to be on the internet, is it going to be by phone because those things can be accomplished that way. **Jonathan** – well there are recovery centers that are recovery centers without walls. We will find another place. It is critical to have a welcoming place to go to. That is what makes a recovery community organization work. In terms of where we are going to be, I think that is going to be up to us. I think we will enlist the community to determine what is best. We are not going to make the same issues again with location. **Marilyn** – are you willing to locate outside of Windham Hamlet? Everyone starts over talking each other. **Chairperson Weiman** interrupts – I am sorry – **Jonathan** says just one more minute, we are willing to listen. What we have noticed in the last week and a half is that many of the people on that petition, which signed it for all the right reasons; they were not clear about who we are or what we are. We are not a half way house. We are not a residence. We are not a detox center. What we are finding, because I am getting the calls Marilyn, are that more and more people including people from that list are now asking if they can volunteer. So, although I know you headed this and I know that it was important, that you are passionate but what I am saying is there is a possible sift in who supports what – **Marilyn** interrupts – no I think you are wrong. **Jonathan** and you do speak for yourself and I am listening. **Marilyn** keeps saying no. **Chairperson Weiman** – we do not need to litigate this here. **Jonathan** – okay, thank you. **Marilyn** wants to respond, a lot of things he says he does not have the bases for things that he says. He makes bold statements with nothing to back it up. **Jonathan** says thank you David, thank you Ms. Carreras I appreciate it. **Chairperson Weiman** calls on Bill McGregor. **Bill** says he agrees with Mr. Poelkers position that the Planning Board should have accepted the petition – Bill reads from a book on petitions and the Town Board accepting and listening to people who bring petitions to their attention. He then asks the Board if everyone has taken an Oath of Office. **Chairperson Weiman** says yes. **Bill** – to uphold the laws of the constitution of New York State. The Board should have accepted the petition. **Chairperson Weiman** – and I was wrong, perhaps you are right and I should have. But once again, the questions that are being raised about this particular situation, we do no t have the tools to address, which is why I passed it along to the Town Board. **Bill** asks the Board if they have received his letter. **Chairperson Weiman** says we have several and **Member Jaeger** states yes we have it here it is in the file. **Chairperson Weiman** continues with being that we closed the Public Hearing does anybody, Marilyn and Jonathan excluded please, does anybody have any pressing comments. There are no comments from the Public.

**Correspondence:** Several emails and letters are included in the file.

**Adjournment:** **Chairperson Weiman** makes a motion to close the ARB at 8:23 PM, 2nd by **Member Shanley**, 4 in favor, 1 absent, 1 vacancy.

**\*\*NOTE:** The Public Hearing for the **Reconvened Public Hearing from August 6, 2020: Site Plan Review # 03 Mountain Top Cares Coalition** Tax Map # 78.18-1-47, 5494 State Route 23 – Recovery Community Outreach Center was moved to the ARB Meeting. Please reference minutes from previous Planning Board Meeting Minutes: **June 18, 2020**

**July 2, 2020**

**July 16, 2020**

**August 6, 2020**

Respectfully submitted,

**Janine Soule**

Planning Board Secretary