

Zoning Board of Adjustment (ZBA) Minutes May 13, 2024 DRAFT

Present: Nicholas Michael, Ed Keith Jr., Charles Simpson, Gary Kupferer, Stanley Markowski, Clarence Greeno, Jeff Biasuzzi, David Atherton, Michael Norris, Kevin Blow, Richard Conway, James Dumont, Alfonso Villegas, Sandra Conway, Mark Seltzer, Barb Lalancette, Terry White, Roger Dickinson

Stanley Markowski spoke about the Town Attorney presence, as Gary Kupferer was there representing both the Town and Jeff Biasuzzi as zoning administrator. S. Markowski stated he felt legal presence should be present. G. Kupferer stated that the Town Attorney can do both.

S. Markowski then asked where the permit was.

Jeff Biasuzzi states the Town of Pittsford zoning regulations are what he is bound by, especially VSA Statute 24, 117. The problem he says is if the highway is a state facility. It is unclear in the Town of Pittsford if that is a facility or a structure. Jeff thinks that is an issue state wide. Jeff has mailed a copy of the statute to people previously. That exemption is clearly stated in article 104 – The exemption is state or community owned properties, where the town has limited authority.

The paperwork J. Biasuzzi mailed, but was not received by members of the ZBA, may be grounds for a continuation, as it would be appropriate in this instance. The appellants are arguing it is an institution or facility. J. Biasuzzi states this is unclear to him. It has not historically been permitted as an institute or facility and has not been an issue or question, even for Segment 1 of the Route 7 project. The section of 24 VSA Chapter 117 section 4452 is not repeated or mentioned in the Town zoning regulations. As such, J. Biasuzzi believes he does not have the authority to enforce the state Statute.

S. Markowski clarified, asking Jeff if in his position, on issuing a response to the Conways is that it is not clear that this is a zoning regulation at all.

J. Biasuzzi's response was that there is reasonable evidence in the mystery of state highways and dealing with municipalities that has never been cleared up in the court. The statute that exempts the municipality from enforcing state facilities is repeated almost verbatim from the Statute to the zoning regulations. The section 4452 that has been presented has not been repeated and is not clear in the zoning regulations.

Someone from the audience spoke up, but did not verify who they were, and said that 4452 has to do with the authority of the zoning administrator to enforce the law. It does not say what is or is not regulated. If there is a violation, this says the zoning administrator can do something about it. What this case is about is 4413 of Title 24. It states that state facilities are subject to zoning. It is not an exemption. The zoning can only be location, setbacks, lighting, and that sort of thing. The Superior Court has affirmed this. You just can't go beyond what it says in the statute you can regulate like the location, lighting, set-backs, and so on.

The question to you is if what Rick and Sandy are asking is outside of these regulations. Your zoning regulations 106 state the exact same thing as 4413, so the 106 zoning regulations need to be interpreted exactly as the Supreme Court has interpreted the 4413. That is why we are here.

J. Biasuzzi handed out packets to each of the ZBA members at this point. Rick Conway asked if they could get a copy of what the ZBA members just received and S. Markowski agreed to let them have a copy.

S. Markowski realized at this point that the agenda had not been approved before the start of the meeting. He asked if there was a motion to adopt the agenda and a second. It was so moved by Nicholas Michael and seconded by Ed Keith, Jr. It was unanimously approved.

J. Dumont and R. Conway also handed out packets to the ZBA members at this point. S. Markowski stated that these packets are what they would go on. They would not be going through all of the testimonies of the who and whys of the project. The Board's job is either to overrule or support the zoning administrator. S. Markowski asked J. Dumont if that was a fair statement.

J. Dumont agreed that was a fair statement. He then stated that the Board was not here to decide if a permit should be granted, only if it should be applied for.

S. Markowski said that is what he wanted to clarify.

G. Kupferer spoke up and stated they really needed to interpret 106 of the zoning ordinance and 4413 of the 24 VSA.

Exhibits were handed out with proposed findings at the top by J. Dumont. It was noted that they had two expert witnesses on zoom that have the same packets/exhibits as the ZBA. The ZBA were told that J. Dumont planned to start at the existing condition of the intersection to see how 106 and 4413 apply.

S. Markowski was trying to clarify information. He said the project as it is underway is to replace an existing bridge, correct? I know there is other changes in the traffic pattern and the intersection. When I look at the road and our regulations, I sense that the road has been there a long time. We have something in our ordinance that if something is built without a permit, after so many years, it does not apply anymore. Am I right on board?

G. Kupferer stated he wasn't sure if that was relevant here. He further stated that he thought S. Markowski was talking about building structures and the fifteen year look back. Try to focus on what the issue is. The board seems to know what a project is and has a handle on that. I think the real issue is 106/4413. G. Kupferer stated that he has found no definitive ruling on this and how it is handled. The board can take judicial notice that it is a significant project on Route 7.

The board gets what the project is. The board needs to interpret the zoning and 4413 and what it means.

J. Dumont's response was that the ZBA needs to know what they are applying it to. The Conways are not contesting the bridge. They are contesting the intersection South of the bridge and the changes to that intersection. They are saying the State needs a conditional use review.

J. Dumont then entered photographs of the current intersection as evidence. There were also drawings of what the intersection will look like when the construction is completed that were entered into evidence.

J. Dumont stated they have a proposed, safer alternative intersection option that will function better. This is Mr. Dickerson's design. Conditional use needs to be applied here.

G. Kupferer then asked why there needed to be expert testimony at the meeting, as the board needs to decide if conditional use comes into play here.

N. Michael said he has one attorney telling the ZBA there is no supreme court case and another attorney telling them there is. G. Kupferer stated there was no supreme court case that has involved a highway. The environmental court side-stepped the issue on that case. G. Kupferer understands J. Dumont's argument, however is that it should include highways, as it is a state structure. This is an interpretation issue.

S. Markowski said he wished Jim Dumont and the State could go into a room and resolve this, without needing the ZBA. J. Dumont said they have gone through mediation, and there have been attempts at settlement discussions, but they have not been resolved and they are still trying.

J. Biasuzzi reiterated that the subject is the zoning administrator's decision. His point is that there is a question on if the state exemption includes a highway, as there is no precedent for that. He didn't see it in section 1. He was asked to make a decision based on information that was available. There are no clear definitions here. That tool is lacking. The issue at hand is if the highway is in keeping with the definition of the institutions and facilities. J. Biasuzzi doesn't see it. He does not find where the state has ever needed a permit. Town highways are regulated by the towns.

Charles Simpson questioned J. Biasuzzi if a town has ever issued a permit to a state highway. J. Biasuzzi is not aware of any. J. Dumont said there is no way to know this unless it goes to court because it is not public knowledge and is not published. G. Kupferer said there was no permit for Phase 1. No one is going to know if any of the 246 towns have required a permit. J. Dumont said this is in discovery, but they do not know this.

S. Markowski stated he believed there was an Act 250 permit several years ago according to his recollection. The answer was yes, there is an Act 250 permit for this and the Conways are

appealing this in environmental court. J. Dumont wants the answer to this ZBA hearing so, if needed, they can be heard concurrently. G. Kupferer asked if there was a timeframe for the Act 250 appeal and J. Dumont told him he thinks in September or October of this year.

R. Conway stated their concern is the structures that are there now, the structures that were there, and the structures they want to install. How are they classified? Also considering safety. The bridge is not the issue. It is the approach to the bridge that is the concern. Right now, the slip lane and current design works and does not have vehicles being masked by big trucks. Whatever is done now will last for a long time. Engineering is not infallible. It was presented to replace the bridge and leave the approach the same, then was changed without another public hearing. People ask R. Conway all the time what is happening with the project. He thinks it is very important. HE does not see how section 4452 of VSA Title 24 "If any street, building, or land is or is proposed to be constructed, erected, reconstructed, altered, converted, maintained, or used in violation of this bylaw. The whole issue is changing that intersection and it is going to make it more dangerous. There are not site distance issues now but the future design has sight distance issues and that is what the witnesses will attest to. Pittsford should be involved in this. The first design was a raceway. The second is just paint. The number of lanes to cross from Route 3 is increasing. These problems do not exist now.

C. Simpson asked if the design of the replacement bridge is the exact footprint of the bridge now.

No.

What is the difference?

There was a whiteboard drawing that was used to show the differences of what is there now versus what is to be there. The 2015 design was also shown. N. Michael asked how the current temp bridge is in comparison.

The exhibits were entered in as follows:

Exhibit #13 is the 2015 design

Exhibit #14 is shown on current design with the new bridge. It shows that it is narrower where the slip lane is. It was asked how much narrower Roger Dickinson stated he did not have the actual dimensions handy. R. Conway then showed the old island versus the new island and explained his concern with trucks blocking the view.

J. Dumont stated the new bridge could have a slip lane but it would look different than the old bridge because the new bridge is not the same. Rick Conway's witnesses have drawn up a plan with a slip lane.

C. Simpson clarified the new bridge that is going in would not need to be altered. R. Conway affirmed that the new bridge is okay. C. Simpson asked if this really does take the bridge out of the issue and the answer was yes.

R. Conway explained how the views will be blocked by tractor trailers and showed it on the white board to C. Simpson.

G. Kupferer asked for a redirect to get back on track.

S. Markowski asked if two of the gentlemen in the audience were from the state. They affirmed they were.

S. Markowski asked why the 2015 slip lane configuration was changed out for the current design.

One of the two gentlemen from the Agency of Transportation stated the slip lane is not safe in the current configuration because people go quickly through that intersection. They do not go the speed limit and slip through.

S. Markowski said the argument could be that people do not slow down before going up the hill on 7 too. He didn't mean to put the AOT on the spot.

Agency of Transportation stated there have been speed studies done. They know the Town's board is concerned with the speed.

J. Dumont asked the ZBA to turn to exhibit 12 in their packets. This is a photo of the intersection on Route 7 with 22A in Ferrisburgh. The state did build a slip lane here. If this does go to conditional use hearing, what the state is going to say is ASHTO (American Association of State Highway and Transportation Officials) have national standards that say no sharp right hand turns and channelized measures should be used. Mr. Dickinson was charged with how to do this here with the new bridge. We've come up with how to do this.

G. Kupferer questioned J. Dumont that the state has a design, you have a design for South of the bridge, but the bridge is fine? J. Dumont stated that was correct, they had no issue with the bridge.

G. Kupferer asked if the issue is South of the bridge and J. Dumont stated this was correct.

J. Biasuzzi reminded the room that the reason they are there is to find whether the zoning administrator had an error in not requiring a permit. The appellants are not worried about the bridge portion, which should go under a permit, but it is not the topic of tonight's discussion. J. Biasuzzi said he does not know where this goes next. If it goes to the appellant's side, there are no town engineers to decide which design is better. There are normally zoning standards you would apply, but there are no standards here.

S. Markowski said it is not up the toe board or zoning regulations to have the standards. The argument between the Conways and the State is why the state went with their plan versus why

the Conways developed their plan. There are zoning regulations on setbacks and roadways for safety. Does that apply here? He is not sure.

J. Biasuzzi said the environmental court has already been done by a concerned group about the slip lane, as people do not like change. The environmental court said they had no jurisdiction.

J. Dumont said he had asked the court to order J. Biasuzzi do something about this. The court stated they could not do this. They can only do it as an appellant body. The environmental court can't do anything as the first instance. The court said to ask zoning to issue an NOV, then ZBA is next step, then court. Environmental court can only hear appeals, not first instances of a case.

S. Markowski asked if they still had an Act 250 appeal and if they are planning on piggy-backing the two cases.

J. Dumont stated that if this goes to court, that would make sense. Honestly, he and the Conways are hoping the ZBA rules that there is jurisdiction for conditional use review and then the standard is to reverse adverse traffic impact on the roads and highways in the vicinity. We all know this means congestion and safety. There would be a ZBA hearing on what the terms of the conditional use would be. If it is appealed, hopefully the judge will listen to what was said in the community.

G. Kupferer stated he thought they were getting a little ahead of themselves. Literally, this board could take parts from both the Conways plan and the States plan and not accept either one. But procedurally, tonight's only decision is if an NOV should be issued or, conversely, is a permit necessary? G. Kupferer prefers is the permit necessary. If it is yes, we give time to get a permit in. An NOV would not happen immediately either. That is it procedurally.

J. Dumont stated he and his client just want them to get a permit.

R. Conway said they asked them to get a permit at the beginning of all of this. He brought this point before a judge, but no construction had started. Now, the construction has started so they came to the ZBA.

C. Greeno asked if there have been any studies done on the accident rate. With that slip lane, it will not cause as many accidents.

J. Dumont stated that the slip lane is not a high crash location.

C. Greeno stated he has been in this town 73 years. There is more traffic coming off Route 3 going North than going that way. He wishes they would bring common sense back to this stuff.

R. Conway said that he agreed with C. Greeno that the accidents that do occur there happen at the intersection of 3 and 7, not the slip lane. What sense does it make to move that traffic over?

C. Greeno asked if engineers talked to anyone in town before the plan was changed.

R. Conway stated they were originally told the State was using the 2015 plan.

S. Markowski stated he was trying to get a sense from both sides and the situation before he makes a decision. He would like to hear from the State on if there are any open lines of communication. Does the State say Conways have a valid point, the engineers from the State don't live here?

Mark Seltzer from Agency of Transportation stated they do have an open line of communication with the Conways and Mr. Dumont. They have been hearing them out and will continue to work with them. They have a meeting of minds on some things that work and some things that won't work.

S. Markowski – It seems to me, the issue all comes down to the slip lane.

M. Seltzer stated as part of negotiations, they are willing to listen to Conway's ideas, concerns, plans, changes, and alterations and have been doing so. The State does feel their plan is best still right now.

S. Markowski stated that sometimes we overthink simplicity. The Conways could have a point by living in town all these years or Mr. Greeno his entire life and myself all of mine. Charles Simpson stated he had been here 43 year years, Ed Keith Jr. all of his life. They are all a local group living with the end result.

M. Seltzer said as someone, he believes J. Dumont stated earlier, it is just paint. It can be changed later. The Conways stipulate they have no problem with the bridge. The rest can be changed later.

C. Simpson asked if the part where the slip lane is now will still be paved.

M. Seltzer stated in the proposed plan, yes, there will be asphalt, it just has paint delineations on it.

C. Greeno they asked if they are putting the island back in, as it is where there used to be a bandstand.

M. Seltzer stated that with the new bridge going in, there is not space for a green space.

J. Dumont spoke up and said they have a proposed island that fits with the new bridge. Mr. Dickinson designed an island of concrete with delineators that could be driven over, if needed.

Barbara Lalancette stated a couple of years ago there was an Agency of Transportation meeting at St. Alphonsus parking lot in the freezing cold. There were about 10-15 people there that voiced concerns. From her perspective, the plan was a done deal.

Alfonso Villegas, an attorney with the Agency of Transportation said they were observing this meeting. Their understanding is that the sole issue before the board is if the zoning administrator made an erroneous decision. My concern is that we are moving far beyond this, going over plans beyond the bridge at the intersection and discussing negotiations, which we really should not be discussing. We clearly respect this is your town and you want to be informed of what is going on. The very narrow question before you is whether the zoning administrator erred in their decision. I would like us to get back toward that conversation.

S. Markowski said he understood and hoped the State understood why he allowed it to happen.

A. Villegas said there is a recording of the environmental court hearing that G. Kupferer has and there is helpful information in there. The State Court statutory analysis in there may be helpful for the Board.

J. Dumont stated he could walk the ZBA through the exhibits quickly to help them determine this, with R. Conway's help. Exhibits 1-3 are Google maps photographs. R. Conway stated that #3 is showing that lights have been removed and will not be put back.

J. Dumont stated they believe there should be intersection ahead flashing lights eastbound on route 3 and Northbound on Route 7 if they are not going to be replaced.

A. Villegas stated this does not need to be discussed here.

Exhibit 4-9 the experts can talk in detail are what Vtrans proposes and are marked up with what Conway's experts have for inadequate site lines, if this goes forward the way Vtrans proposes. This issue is if a truck is turning right and someone is turning off from Route 3 and can't see around the truck.

Exhibits 10-11 are an alternative design, if this goes to conditional use, that Conways would prefer to be the design.

J. Dumont stated that R. Conway has delineators that are proposed to be put by Conway property. These delineators are about 3' high and block access to the pumps. There was confusion on what exhibit both J. Dumont and R. Conway were discussing at this point.

A. Villegas stated that no one is arguing that there will be change at the intersection. The sole question is if the zoning administrator made an error outside of his scope of review. My sense is that the zoning administrator is saying this is exempt. The zoning board can decide if this is or is not exempt. My sense is that it should not matter what the intersection is or is not going to look like to make this decision. This is irrelevant. The board should have the information to issue an

NOV or a request for a permit. The current testimony is a) irrelevant and b) AOT feels if they do need a permit, the Board will already have evidence that AOT has not been a part of.

J. Dumont said he needed to respond to this. If the State is willing to stipulate the intended changes they propose do not interfere with the function of the intersection, it is irrelevant, but they haven't stipulated that. We need to provide this for section 4413/106 of the ordinance on showing you have jurisdiction.

G. Kupferer stated that himself and the Board get the point in a broad sense. It is a safety issue. He does not feel that needs to be belabored anymore during this meeting. He thinks if it comes up the safety will become an issue. The meeting is getting into the weeds a little bit. G. Kupferer believes the Board gets it, but also agrees that we are going astray with specific details. If a permit is required, that is where all of the details would be presented.

J. Biasuzzi wanted to point out there are two hearings tonight. It has been over an hour and there is a lot of new information put at the Board. He asked if they wanted a continuance or what the Board would like to do.

G. Kupferer asked if the Agency of Transportation if they are presenting any evidence or testimony tonight.

M. Seltzer stated not other than what has already been presented.

G. Kupferer said he didn't see why they couldn't conclude this tonight. They've heard from the appellant and AOT says they have no more evidence.

J. Dumont stated he needed 30 more seconds. He felt that Mr. Dickinson and Mr. Stout should be able to present the safety concern.

G. Kupferer stated they Town's position is that would be testimony. Mr. Dumont and Mr. Conway have already done a good job of making the safety concern clear.

M. Seltzer spoke and said the AOT was not notified of this hearing properly, so their understanding today is about whether an NOV or requiring a permit be issued is the decision at this moment. The board has a major decision to decide if they have the authority to decide this. The AOT is unprepared for testimony, etc. tonight as they were not properly notified other than a late email received Friday.

G. Kupferer stated the ramifications of tonight's decision might affect you greatly, but you have chosen not to present evidence tonight. I respect that.

J. Dumont stated he had been sending all of his communication with G. Kupferer to the AOT for months.

G. Kupferer addressed the Chairman of the ZBA and stated the state was not going to present any evidence tonight. They had a choice. Mr. Dumont and Mr. Conway have presented exhibits, which I think we need to move to accept the exhibits as evidence. There was a motion to accept exhibits 1-15 by J. Dumont. G. Kupferer asked if there was any objection.

Agency of Transportation stated they will not waive the issue they were not improperly noticed. They will not waive the evidence issue. They do object the exhibits. For the purpose of this hearing, exhibit 13 we object to as this was a very old proposal. Number 14 is the same as number 11, but is marked up. Number 14 is ok for evidence. Exhibit 15 was pulled by G. Kupferer, as it appeared to be a duplicate of another piece of evidence. Exhibit 1 is a sectional drawing and is ok. Number 2 is the base of Conway and is ok as evidence for all parties. Number 3 is the base of the bridge and is ok for evidence for all parties. Numbers 4-12 are objected to by the State. Numbers 4-11 are various plans. Numbers 4-7 are state plans with mark-ups by Mr. Conway's expert witnesses. Number 12 is a Google map of the Ferrisburgh intersection. Numbers 10 and 11 are how the Conways would change the state plans.

The Agency of Transportation understands the board does not understand why they would object to their 2015 plan. The reasoning of AOT is that is not what we are here for. What we are here for is to determine whether the zoning administrator made a mistake that the highway did not require a permit and he did not issue a notice of violation. What the state proposed in the past has no bearing on this decision. If, at a later date, it is decided that the State needs a permit to build a highway, if that was the case, what was proposed in the past and what is currently being worked on may be relevant for a permit application. For the question today, do you have the authority to demand a permit? It is not relevant. That also goes for our objection to 4-11, as Mr. Dumont states, these are state plans marked up by their experts, so these are no longer the state's plans. They are Mr. Conway's plans with their expert's designs and suppositions. They are not relevant to your question, do you require a permit? The slip lane photo from another town also does not answer or have relevance to the question. That is why we are objecting to this. I am still not waiving the State's position that we were improperly warned about this hearing but I would argue that environmental court paperwork provided by Dumont and relied on by Jeff Biasuzzi states Title 19 – legislature gave sole responsibility to design, implement, construct and maintain roads to the State. Footnotes are very important. If AOT was required to permit for every town for the highway, they would have a constellation of zoning regulations they would constantly need to go through, plan for, and would delay necessary maintenance and construction/implementation. One of the board members brought it up earlier that road funding, sometimes federal, is managed by AOT and staying current with Federal regulations for safety. That is why we are here. Generally, zoning boards are generally exempting highways and local zoning ordinances. The Superior Court case cites earlier has a very good analysis for title 19 highway, where it states AOT sole responsibility to carefully design, plan and construct. I would argue that zoning does not have authority or need to issue a NOV or permit to finish this project.

J. Dumont mentioned Zinn versus Tobin Packing that if a party does not receive ample notice, their remedy is to ask for a continuance so they can come back amply prepared. If Vtrans wants

to follow the legal route, then they should ask for it and they can ask to come back. The statute 4413 does not distinguish between highway projects and others. The supreme court case we have used has to do with prisons. I think we can agree they are solely a state responsibility and by the same argument, we would not want people like you to interfere with a prison, other than the normal set-backs, lighting, etc. It can't interfere with the function of the prison.

G. Kupferer asked if they could focus on the exhibits. He thought everyone had made their points. The question he had is the plan from 2015. He wanted to know if this was a plan set forth that is not a plan set from either party currently.

J. Dumont stated this was correct. No one is using the 2015 plan now.

C. Greeno asked when the 2015 plan changed, were the townspeople notified?

R. Conway stated no. There is a scoping report that is over 100 pages long on this. The bridge should have been done years ago.

C. Greeno asked what happens when the State gets to Segment 4.

G. Kupferer said he thought they were getting a little off track. Exhibits that are going to be allowed need to be decided. R. Conway is agreeable to having this done in deliberative session, rather than during the open meeting. AOT wanted to know if there will be a written decision along with reasoning when this is completed. G. Kupferer said there will be a written decision, but an explanation of why some exhibits are accepted and some are not will not be explained.

The AOT (A. Villegas) said he was laying all of his cards on the table. The zoning administrator is right. People are told what is going to happen. The Conways realize they can't go directly to the trial court and need a hearing and decision by the ZBA in order for the next steps to occur. There will be an appeal.

G. Kupferer said they were still at exhibits. He said he could give his thoughts, but it is not his decision. He said he didn't see why the big one needed to be there. It is not something either party is using. It may have been relevant in the past or be needed in the future, but not relevant here. The other exhibits, the one in New Haven or wherever is not relevant because it is not here. The other ones as he understands it and the parties have explained it well, we could admit them. He does not see how relevant they are, but they would be ok.

S. Markowski said he thought that was a fair comment. The ZBA is not here for traffic patterns and studies. We are getting back to what Mr. Alfonso said and he had a point right along.

G. Kupferer thought they should not admit 12 or 13, but will admit 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 14. He further stated that summarizing both positions tonight, can they at least agree on the law. He believes the State is relying on Title 19 – jurisdiction of highways, which says it is under the AOT and Town of Pittsford stays out of it. The case they are talking about is Condo

Grand Isle versus State. G. Kupferer asked if this was correct. The AOT replied it was. G. Kupferer then stated he believed Mr. Dumont cited two Supreme Court cases.

S. Markowski asked if the ZBA was asked to possibly set a precedent.

G. Kupferer said they were. G. Kupferer said they get and respects both sides. There is no Supreme Court case in Vermont that says you need to do DRB and he thinks that is what was relevant with Jeff when he made his decision is that there were other projects that happened here in Pittsford, which Markowski Excavating did one, and there were no permits. That does not mean there should not be one, but Jeff could look back and see no permit previously. In a nutshell, that sums up tonight's discussion with one more caveat of Conway's discussion and position of safety. Is that accurate?

R. Conway said the only thing he wanted to add is that the zoning administrator referenced segment one. In segment one, there was not construction of islands, new design, removing lights, or blocking access to the Mobil Station, which we did not get into tonight.

G. Kupferer asked R. Conway if he set the two scenarios apart. R. Conway replied yes.

S. Markowski thanked them.

G. Kupferer then stated he wanted to address the deliberative session. He thinks he has been candid and transparent tonight. He believes to understand things to be that the Board would rely on himself or the law, which we can all agree on what it is or what it is not.

J. Dumont asked if they were not going into deliberative session right now, if it was possible to submit a brief between then and the deliberative session.

J. Biasuzzi reminded the ZBA there was still another hearing tonight and they had a lot of information to go through. G. Kupferer stated he thought it would be best to adjourn and close testimony, then set a date for determination. If the parties would like, it is optional, they can submit a written memorandum.

J. Dumont said he would do that.

G. Kupferer asked AOT if they would like to as well and if so, how much time they would need.

J. Dumont stated two weeks out would be best.

S. Markowski said they would plan on it and notify the parties of that date and time. The ZBA would give a minimum of a two week break.

G. Kupferer stated the ZBA needed a motion to close evidence and testimony and go into a deliberative session at a later date and time. C. Greeno so moved. It was seconded by N. Michael. Motion passed unanimously.

S. Markowski asked if they needed a date tonight.

G. Kupferer stated they would schedule after the two weeks to allow for submittals. They would also need to look at everyone's calendar and get back to people with a date. They will schedule as quickly after the two weeks as they can.

J. Dumont asked if the blown up exhibit could be submitted as an 8 ½" x 11" so that R. Conway could have his enlarged board back. That was accepted.

It was asked that the briefings be sent to G. Kupferer to keep things clean.

This hearing was then recessed to Monday June 10, 2024 at 7:00 for deliberative session.