

TOWN OF GHENT  
PUBLIC HEARING  
February 18, 2021

There was be a public hearing before the Ghent Town Board on February 18, 2021 at 6:45 p.m. for the purpose of considering Local Law No. 1 of 2021, which would amend the Code of the Town of Ghent, Chapter 40 Planning Board and Zoning Board of Appeals, Section 40-8 Retention of experts by Board, to clarify that the right to retain experts does not extend to legal counsel and to expressly reserve to the Town Board the exclusive authority to appoint legal counsel to represent the Town and any of its boards.

Supervisor Benvenuto read the Public Notice aloud and opened the meeting for comment.

Dan Barufaldi- Planning Board member: requests that the email sent by Planning Board member Larry Machiz be read into the record during public comment. The Planning board has expressed zero concerns about the representation of Attorney Cabral. This is not an issue of an individual attorney, but the Planning Boards right to choose. Speaking on behalf of himself has a member of the Planning board, not for the Planning board as a whole. This has been discussed by the Board at a public meeting and with 6 ayes, no ayes and abstention for the Planning board to retain independence in selection of their own counsel. When NYS created this law, they did so to give a framework of governance on how to set up planning, zba and town boards in doing so how to separate elected officials , appointed officials, contractors , employees and experts. Evident of a few specific statutes that for instance, no Town Board member can serve on the planning board or zba, the planning board is allowed to decide on their own experts including legal counsel. Decisions regarding land use, variances etc. are left to planning boards, not the Town boards, to insulate themselves from powerful forces. Planning board members serve for 7 years, Town board members for 4 years. Planning board members cannot be fired, except for cause by the Town board, they do not run for election and are able to select independent experts. All of this is so they can make decisions independent of political forces. You undermine their ability when you insist on using the same attorney that the Town Board uses, and there is no good reason for it. Good governance maintains this independence between elected officials and appointed officials. Assigning the same attorney pierces that independence and undermines credibility of both boards. The Planning board is uniquely qualified to select their own attorney. No single entity should have the ear of the three most powerful boards in the Town. This is bad governance, we need diversity in opinion, and independence is clearly needed. We have had Town board members who apply for projects within the Town, we have had applicants who plead their case directly to the Town Board and there have been times members of the Town Board have entertained conversations requesting they intervene on applications before the planning board. I know myself some planning board members have contacted me specifically about current application and their merits and I know this is true for other members as well. After these conversations, I have placed calls to our Planning Board attorney to see what my legal obligations were in terms of handling the call and whether fielding the call was even legal. Its time like those we need independent counsel. I do not support this law, I urge you not to pass this law and ask each board member at the time of vote to go on record with their finding of fact and the rationale for their vote.

Supervisor Benvenuto read aloud a statement from planning board member Larry Machiz:

Dear Town Board Members: I write to you to voice my opposition to proposed Local Law #1. I do so as a citizen of the Town of Ghent, a lawyer, and a longstanding member of the Town's Planning Board. This law would deprive the Planning Board of the power to hire its own counsel, a power we are granted by State Law and which we have had, during my entire tenure on the board. Since exercising that power, we have in my considered opinion, received consistently good advice - at modest expense, and most importantly, we trusted the advice to be independent of influence from any other source. The planning board was the client. Making the Town Board the authority for hiring our attorney will inevitably make our attorney beholden to others, undermining the attorney's independent thought and undermining our confidence in his or her advice. I have appeared before other Town's Planning Board and I wish to assure you that Ghent's board is a model of excellence. To the extent that you hear griping about our Planning Board, you should take it as a sign that the Board is being demanding. That is what you want from a Planning Board. Our Town will recruit new members to the Planning Board and the Zoning Board only by respecting their intelligence and respecting their independence. That the opposite is true should be equally clear. As you well know, the entire term of our utilizing independent counsel has been marked by an absence of litigation over planning board proceedings. That we are both demanding of applicants and litigation-free speaks the standard of excellence that our Planning Board has achieved. I hope you and other Town Board members will consider these comments in your deliberations and will not adopt proposed Local Law #1.

Craig Simmons- town resident: Support Dan and Planning Board, wish we had heard from someone on the Zoning Board as well. Makes perfect sense they have the right to hire their own counsel or whatever professional advice they feel they need. This is the reason we have different committees, or else the board could do all the work without having committees. I do not support the new law.

Stephanie Lazar- Planning board member: Supports the comments from Dan, Larry and Craig. I do not support this proposed law. The Planning Board has value in having its own counsel and believes that process the Town has gone about this has been unfair to the planning board.

Supervisor Benvenuto closed the Public hearing at 6:59pm.