

Public Comments for Village of Blooming Grove Public Hearing, July 29, 2021

Good Evening,

My name is Ryne Kitzrow, and I live at 120 Round Hill Rd. In this statement, I intend to document how, in the presentation of this local law, the Village of South Blooming Grove is misleading the public regarding the contents of this law, either intentionally or unintentionally, by acting against the spirit of, and possibly out of accordance with, the New York State Municipal Home Rule Law, Article 3, Section 20. As I will detail, public presentation, including document titles and meetings of this law describe this as a, "house of worship law," while official documents refer to the law itself as a broad "zoning amendment to Chapter 235, Zoning." The impact of this is that the Village is concealing highly impactful zoning changes that will damage the Rural Residential and Ridgeline Overlay Districts, removing protections for flora and fauna, increasing housing density, and threatening views by allowing taller homes.

This deception is significant because New York State law requires that local governments are transparent with the contents of local laws, requiring the laws relate to only a single subject, and have a title that appropriately represents the changes. New York State Municipal Home Rule Law, Article 3, Section 20, Subsection 3, states that, "Every such local law shall embrace only one subject. The title shall briefly refer to the subject matter."¹ The purpose of that provision, as stated in *Burke v. Kern*, "[is] to prevent concealment and surprise to the members of the Legislature and to the public at large..."²

The Village of South Blooming Grove has repeatedly, and consistently, titled this local law a singular "House of Worship" law in public facing documents, while, at the same time, titled the same law a more generic "zoning amendment," within the text of submitted documents. Regardless of intent, the outcome of this discrepancy is that the public have been notified of a narrow "house of worship" change when, in fact, this local law contains broad changes to the zoning code, most of which are unrelated to the house of worship legislation. Both residents and media, including a *Times Herland-Record* article published after the May 21st meeting, have continued incorrectly to perceive this local law as a narrow focused, house of worship change.³

As evidence, on May 21, 2021, at 11am, a public hearing was held regarding the same local law being discussed tonight, July 29th, 2021. While the documents internally referred to this law as, "A Local Law Amending Zoning Chapter 235, Zoning," the documents were titled, "05.21.2021 village board public hearing worship 235," "5.21.2021 LL – chapter 235 Special Permit House of Worship," and the webpage for the hearing was itself titled, "Village Board Public Hearing – House of Worship."⁴ An additional version of the local law is also available on a page titled,

¹ <https://www.nysenate.gov/legislation/laws/MHR/20>

² <https://casetext.com/case/burke-v-kern-1>

³

<https://www.recordonline.com/restricted/?return=https%3A%2F%2Fwww.recordonline.com%2Fstory%2Fnws%2Flocal%2F2021%2F05%2F21%2Fsouth-blooming-grove-board-proposes-new-permit-process-synagogues%2F5184297001%2F>

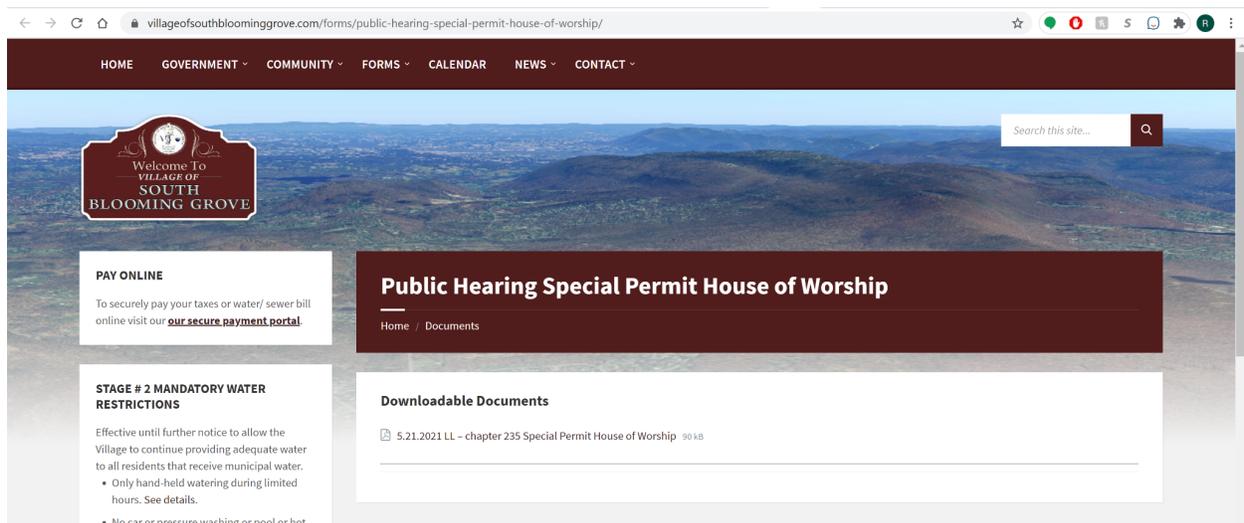
⁴ <https://www.villageofsouthbloominggrove.com/events/village-board-public-hearing-house-of-worship/>

“Public Hearing Special Permit House of Worship.”⁵ The documentation for tonight’s public hearing is provided on a page called, “VILLAGE BOARD PUBLIC HEARING CHAPTER 235 HOUSE OF WORSHIP.” The agenda document is titled, “07.29.2021 village board public hearing worship 235.” The contents of that Agenda, when clicked on and opened, do not reference a house of worship law directly, and only refers to, “amending zoning chapter 235.” That is a trend that goes back to documents provided on May 21st, 2021. The version of the laws which was submitted to the Orange County Planning Department, break down the contents of the law change into (1) amendments to allow house of worship zoning, (2) amendments reduce regulation and restrictions within the Rural Residential and Ridgeline Overlay Districts.⁶

Due to the time limit restrictions for this public hearing, I cannot go into full detail for how the zoning amendments will harm the Rural Residential and Ridgeline Overlay Districts. A brief summary is as follows:

- The village is removing a requirement for a land conservation analysis if a development endangers, “Identified habitat areas for threatened or endangered flora or fauna.” (235-14.1, Section A (2) (a) [1] [a] [viii]) - Despite the clear impacts on impacts to Flora and Fauna, the SEQR form incorrectly lists impact to Flora and Fauna is “No”, sections 1 through 17
- The village is increasing allowed housing density in the Rural Residential District by at least 25% (235-14.1, Section A (3) (a)) - This appears to also be documented incorrectly in the local law as an “Add” when it should be an Amend.
- The village is increasing the allowable height of buildings in the Ridgeline Overlay District by an unprecedented 40% (235-14.4, Section C (4)(a)[1], [2], Section C (4)(b)[1], [c])

Screen Shots:



⁵ <https://www.villageofsouthbloominggrove.com/forms/public-hearing-special-permit-house-of-worship/>

⁶ <https://www.villageofsouthbloominggrove.com/wp-content/uploads/6.25.2021-PROPOSED-LOCAL-LAW.pdf>

Additional Details:

Office of the state comptroller, opinion 92-13⁷

As noted, section 20(3) also requires that the title to the local law shall "briefly refer to the subject matter". This requirement has been interpreted to mean that the title must apprise the reader of what may reasonably be expected to be found in such law (Burke v Kern, supra). Accordingly, the town also should ensure that the title to the local law is adequate to meet this test.

⁷ <https://www.osc.state.ny.us/legal-opinions/opinion-92-13>

The leading interpretation of language, such as that contained in Municipal Home Rule Law, §20(3), was in the Court of Appeals decision of *Burke v Kern*, 287 NY 203. The Court stated as follows at p 213:

The purpose of this provision was to prevent concealment and surprise to the members of the Legislature and to the public at large, and to prevent legislative 'logrolling'... In applying the constitutional provisions, the courts have formulated various tests chief among which has been a limitation of the subject-matter to one subject, which however, may embrace the carrying out of that subject-matter in various ways, provided the objectives are naturally connected with the subject matter and the title could be said to apprise the reader of what may reasonably be expected to be found in the statute.

One subject per local law is required by State Const. art. III, § 15⁸

⁸ <https://casetext.com/case/burke-v-kern-1>