

Village of Skaneateles
Zoning Board of Appeals
December 22, 2009

A special meeting for the filed complaint concerning the lighting of the tennis courts at 3 Bobbett Lane, Mezzalingua property.

Present: Lisa Banuski, Chairman
Craig Phinney, Member
John Crompt, Member
Lee Buttolph, Member
Larry Pardee, Member

Jorge Battle, Clerk to the Zoning Board of Appeals
Riccardo Galbato, Attorney for the Zoning Board of Appeals

Andrew Ramsgard, Architect consultant for the Mezzalinguas
John Langey, Attorney for the Mezzalinguas
John Mezzalingua, 3 Bobbett Lane

Clifford Abrams, State Street
Evan Dreyfuss, East Genesee Street

Chairman Banuski opened the meeting at 8:24pm. She said, “this is not a public hearing but it is still a public meeting of this Board. I think that the proceedings should be recorded. This came to us a complaint from the neighbors, how this started. I thought that I might just run down the chronology as I understand it with the tennis court. In June of 1985 both the Planning Board and the ZBA approved a tennis court on this property with the condition that the tennis court may never be illuminated. That was a previous owner. After the Mezzalinguas bought it from the Cappuccillis (Fattis) so some owners later and I’m assuming this is probably around 2005 or 2006. Piers for lights at that tennis court were installed and lights were on order. I know that you probably didn’t know that they were illegal lights but in fact they were because they had been prohibited from being there. In October of 2007, you came to us with variance request to relocate the tennis court and drawings for the barn and tennis court were submitted for approval. The neighbor at that time came the Codes Enforcement Officer, and wanted to see the lighting plan for that, and Jorge said that there were no lights on the drawings, so it’s not going to be lit. That neighbor had no objection to the tennis court and did not appear at the public hearing and had no objection to the tennis court. Now there are lights on the tennis court and that’s the chronology of how we got to where we are tonight. To tell you the truth, I’m not sure what this is other than an informational meeting to decide how best to proceed with this conflict and how best to resolve it. It’s not a public hearing. I’m here to hear what the Mezzalinguas and your people have to say. We all did go out, most of us I think, I know that 3 of us at least went out and looked at the lights tonight.”

Andrew Ramsgard representing the Mezzalinguas said, "I'd like to go ahead and talk about the lights and the site that's out there. In response to - these are drawings that were done in response to the letter of November 24, 2009 from the Easters relative to the lighting on the tennis court. I would like to make a point of saying that in their second paragraph that they said that they stopped at Jorge Battle's office earlier last Summer which would be the Summer of 2009 which was after variances were granted." The Chairman said, "oh, it was afterwards. Then I was incorrect with my chronology on that detail."

Ramsgard continued, "I'd like to bring attention to - this is the completed Site Plan. This is the house. North is here. The Mezzalingua's property is a 3 acre parcel off of Bobbett Lane which is off of East Lake Street. It's the second largest parcel of land on East Lake Street in the Village of Skaneateles. There's only one other property that's larger than that. We came before this Board for a variance for relocation in name only for a tennis court. The issue at that time for the tennis court is the technicality of the tennis court being located within the front yard. Because there's language in the Village Zoning Ordinance that says that a tennis court may not be located in a front yard. Although lake properties - the lakeside is considered the front, the back side is also considered the front. A lake property has no rear yard. A tennis court may be located in a side yard. When you look at this property, you can easily see there's a lot of ways to interpret it. But, because it was ahead of the principle structure, and the street access is here, the technical issue for the variance was location within the front yard.

The Easter's property is directly to the north. This is the neighbor that complained. So, we have for the record empirical data from the manufacturer that shows a light grid every 10 feet of the foot-candles that are spread by the 6 fixtures. There are 6 fixtures, 3 on each side located on the tennis court. They are 18 feet off of the plane of the tennis court. The elevation of the lights is 920 feet relative to the topography. The neighbor's house, Easter's, its elevation is 897 feet. It is down much lower. The empirical calculations of the manufacturer show that at the property line there is zero light trespass. That was quantified in observed data that I took with an ExTech light meter that's certified and rated to the ISO 2720 Standards for light readings. I went around on November 30th, 2009. To give you a little bit of back-up information on the ExTech. Its sensitivity is able to read the foot-candles that come off the moon at full moon. A full moon sheds about a 1/10 of a foot-candle on a surface of the earth on a clear evening. So it can read a tenth of a foot-candle. So, I did 2 sets of readings across the property, around the perimeter of the property line every 25 feet. I took reading both at the elevation of the ground plane, and at 3 feet off of ground. I observed zero foot-candles around the perimeter of the property with the exception of November 30th, the trees were not completely in place the way they are now. There was still a couple missing. So, there were 2 readings that were 3/10th of a foot-candle at the property line.

I also took readings with the lights off at 6:05 and I took readings at 6:25 with the tennis court lights on. The readings are all zeroes across the perimeter of the property line with every 25 feet. I think that everybody that was out there tonight should have been able to clearly see along the property line that there is zero light trespass. The cut-off angle of the fixture is as the empirical data of the manufacturer shows in their - this is the Kelvin Scale rendering of brightness of the lumens around the tennis court. This is foot-candle practical reading of each

one of the foot-candles around the perimeter – halfway through the tennis court it is exactly the mirror image of the side. Once you have half the information you have all of the information.

There is a copy of the Excel Court Master fixture which is the fixture that's installed. This is a photograph of an installation somewhere. This is a multiple tennis court installation but also shows you clearly that this fixture follows the and what the specifications show is that the fixture meets the IDA Standards which is the International Dark Sky Standards for no light pollution. Light pollution is defined as light that is emitted off the property into the sky and off of the property in plan. There's zero readings around the perimeter of the property off the tennis court from the light fixture.

These 3 photographs show – to the left the Mezzalingua's tennis court and their barn structure. To the right, the Easter's property with Bobbett Lane going straight down through the properties. There is 2 tree lines. One tree line that the Mezzalinguas put in, directly adjacent to their tennis court. Then there's an existing hedge row and tree line along the property line with the Easters. The trees that they put in average in size from about 18 feet to about 16 feet. That is this row of evergreen trees along this side I took photographs both at the times of observation at 6:05 and at 6:25 from the same spot along the property line at the entrance to the property looking back at the tennis court to show that differences in what is visible off of the property at the property line and what you see is the light on the tennis court surface itself, with the ground plane. You don't see the fixtures. There is no glare as you can see in the picture of the fire house, where you do get glare, you don't have those features on these tennis court fixtures.

What you see is the building illuminated from the reflectance of light off the tennis court surface back onto the face of the building, very similar to the holly lights are Roosevelt Hall or at Gerst's property or at the Gregg's or at the Fire House which are ??? and the Gregg's are in A-1 and the Fire House and Gerst's both in A-2. Any questions?"

Member Cromp asked, "how high are they?" Ramsgard said, "18 feet; In the letter from the Easters, they had referenced the Village lighting in the parking lot. The Village lights are 30 feet off the ground. I did take readings of the Village lights on the ground plane, underneath the lights, those are 3 ½ foot candles on the ground directly in to the lights - which is not comparable to a zero reading to 3 ½ foot candles. So, there's really no comparison. If there was a ½ a foot candle at the property line by these lights - if – that means that there would be 6 times the amount of light from the parking lot lights than what these lights produce, at the property line. So, the comparison made in the letter is not relative to the actual observed data or the empirical data that was provided by the manufacturer."

Chairman Banuski said, "I would never suggest that either you or the Mezzalinguas would have deliberately left off lighting plans for this. But it does seem that since there were plans to light the previous court, that all along that maybe there were plans to light this. I can really sympathize with the neighbors on this being faced now with something after the fact where they may well have come with objections, and with other tennis courts for this property included for swimming pools, for installations like that, we take that very seriously. You know Andy, with swimming pools, lighting is and can be very intrusive and disturbing. I'm in the heart of the Village. I sometimes on a summer night am very frustrated just by the porch lights of my

neighbors, where I can't see the Milky Way at night – on a clear night. Photographs that you have of the dark don't represent what I saw when I drove over the hill tonight and saw the light. I know those are photographs, and I realize that's what the camera saw."

Ramsgard said, "you make a very good point. Those photographs don't represent what you saw tonight. Because what you saw tonight was a white light on a white snow, that completely blanketed the surface of the ground and what you see is a lot more brilliance in the light that's cast because of the snow." The Chairman said, "right, just like a full moon will make it." Ramsgard said, "it will be brighter in the wintertime in the snow, because it's on a white surface. This is a tennis court. All the leaves are down. The pictures that I took was on November 30th, when everything was still green. So I would expect, if I took that same picture tonight at the same time that I would expect a very different picture, if I took it tonight than what I took on November 30th because of all of the extra reflectance of the snow." The Chairman said, "right, and I definitely understand that. But it's not just a tennis court. It's also a basket ball court and my guess is, because kids can run around and play basket ball on it, that they could also use it for snow play, for anything else that they might want. So, there's nothing that says you can't turn the lights on in the Winter and have that glare that we saw tonight, that was visible well down East Lake Street." Member Phinney said, "from the top of East lake Street, top of Bobbett Lane I could see the house."

Chairman Banuski said, "part of the problem we have with installations like this, with the lighting on them, is not that the owners intend to be an imposition on their neighbors. But it happens where you have little kids that don't play tennis and all of a sudden they are teenagers and playing basket ball at 11 o'clock at night. It's not about intention. It's not about we will have the lights off by ten o'clock every night. It's impossible to enforce a pledge of good faith and it puts the neighbors in a very unenviable position of having to be a cop and enforce a situation if it should be past 11 o'clock, or on a winter's night, what ever. The comparison of those lights to the Christmas lights is a disingenuous comparison at best – to say that someone's lights on their wreath or the Fire House lights are equivalent to that, I really take exception to that."

Ramsgard asked, "if you can see the building from a distance, how is it different?" The Chairman replied, "the analogy that I gave you before too about pornography. There's a difference between – I may not be able to define pornography, but I know it when I see it. I think people would go talk about their lights on their houses – to tell the truth, I think the lights on the Fire House are excessive. I don't think it needs to look like that at night. So, if I was a neighbors there I'd be taking exception to that light as well. I think it's difficult – there's no question that the shadow on the ground – I saw it tonight – it ends at the tennis court - where the light comes down. You step off the tennis court 3 or 4 feet and you are in shade. But the ambient light that thrown up – I realize that the snow is a contributing factor, but if that tennis court was lit next door to me, I would have a real problem. If I had a neighbor that put up 6 -18 foot lighting installations in their yard, I think I'd have a problem with that."

John Langey, Attorney said, "...I'm a land use attorney with the law firm of Costello, Cooney and Fearon. The last time I was here I was with Andy and we did the Thayer House together, which was a nice project for the Village. I represent the Town of Cazenovia and the Village of Liverpool and about 12 other towns in central New York. I can appreciate the position

that the Board's in. To the Chairman's point, I would ask you if you could please, as you say, you know it when you see it, I'd like to hand out at this point a 'position paper' that we have and would like to get into the record with regard to a number of points which we plan to address. As far as knowing it when we see it, as a zoning board, I'm sure you are aware that zoning laws are a derogation of Common Law, and they are going to be strictly enforced against a municipality that seeks to uphold them. In that regard, we are in a position where we believe that we've met the letter of the law of all the provisions of the Zoning Ordinance which get us to the point how exactly do we enforce what ever provision we are trying to enforce? So far we've been reference to the provisions of the standards of 225-27, which uses the phrase if believe is *objectionable glare*. It's awfully difficult, I use this example, I hate rap music. I can't stand rap music. It's objectionable to me. My son loves it. So, when we use *objectionable glare*, in your Ordinance we really don't have a great point - we don't have measurable data that we can use contained in the Ordinance, that we can say well, this is what's objectionable and this isn't what's objectionable. So, as a Chairman did you say you certainly wouldn't like it next to you. I guess I would put you the question of when would it not be objectionable? At what point would the light not be objectionable? Would you stand in that place as we dim the lights and you say OK now for me that's good. But the Board member right next to you might say no, it's not good yet and turn it down a little bit more, a little bit more. We might have 5 different decisions on what's objectionable for this law.

I would probably go to Jorge, who's the Code Enforcement Officer here and say Jorge, you would agree that you are the first person that gets to interpret the Code? This case came to you by complaint, correct? (Batlle said, "correct.") Did you make a decision that it was objectionable?" (Batlle said, "no. I referred it to this Board.") That gets us to the jurisdiction of the Board. Your jurisdiction is appellate generally. You have the right to do interpretations, yes. But, those interpretations come from complaints that Jorge misinterpreted the law or what the law actually means. I'm going to interpret the Code as to what does the phrase *objectionable* mean? Maybe that's what we are here for today, is to find out from the Board what is it that's objectionable? I don't think we are going to get away with I'll know it when I see it because the next person next to you might not know it when they see it. And it could be somebody else. The Dark Sky Standards what Andy talked about, we adopted those in the Town of Cazenovia and uses measurable standards. That's the best thing you can do. I have some case law for your counsel, an older case. There's not a lot of cases on this. This is an older case out of Briarcliff Manor downstate, and it deals with a Village that adopted a law that said that shall be *no operation permitted that would be offensive, obnoxious, or detrimental by reason of vibration, dust, fumes, odor, noise, lights and traffic generation*. That law was struck down because it provided for no proper standards. The court has said that you need better standards. What was important is in 1965, this was a noise one. It was not a glare one. In 1965 the court said we've got scientific data where we can measure noise now. We're lucky, it's 2009 and we have light meters and we have things like that where we can actually measure these things. Now what's compelling to me in this case is that Andy has shown that there's absolutely no light trespass. When there's no light trespass, to me that seems like that could be a pretty good standard. If there's no light trespass how could it be objectionable? Certainly you can see it. There's no doubt about it. Anything that's lit is going to be seen depending on how clear the night is, will be seen differently and perceived differently. Maybe on a cloudier day it wouldn't be as well seen.

We are getting into an area now where it's maybe a little vague. Maybe it could be challenged as unconstitutional.

Then I get back to this idea that the Planning Board at its last meeting made a recommendation to this Board that you determine that the standards have not been violated." The Chairman said, "right. None of them have been out to see them." Member Phinney asked, "have you been out to see them?" Langey said, "I have not been out to see it. I would take the position I shouldn't have to see it. I should be able to use empirical data." Member Phinney said, "I would disagree strongly with that." The Chairman said, "I appreciate ??? and I'm actually a little dismayed because I thought we were going to try and have neighbor with neighbor and work something out. Now we are with 'position papers' and 'case law' and that's fine and that's your job, and that's Andy's job. It's your property and I know you want to protect your rights with it. I think when you talk about the letter of the law, I'm not sure but you may have a point there. And certainly my pornography illusion was vague, and I will not use it again. But, I think there is a spirit of the law, and I think we are in a village and this was a first meeting - an informational meeting - to try and work it out. So, I'm really sorry that this is what we are doing tonight."

Member Phinney said, "we are now confrontational." The Chairman said, "I will say that the spirit of the law, I think, was violated here. I think that when you go from a tennis court that a Board, 2 Boards said should not ever be illuminated, just because it was relocated, and no lighting plans appeared on the drawings for it, when it was obviously - every intention was to light it - when it was intended to be that the old was going to be lit, illegally - not that you knew that. But that's how it goes. I do think that the spirit of the law has been violated here, and I think that this should be open for a public hearing with the neighbors who are effected by it could come and be heard."

Langey asked, "well, why is that? I guess I would ask the question - you mentioned earlier that the Planning Board from 1985 and the Zoning Board from 1985 said no lighting." The Chairman said, "it was probably the neighbors said that it never be illuminated." Langey asked, "but why?" The Chairman said, "because it is disturbing and offensive to neighbors." Langey said, "not if it is not objectionable. If it is non-objectionable lighting - don't we agree that there must be some level?" The Chairman asked, "then why shouldn't we let the neighbors be heard and see if it is objectionable to them?" Langey asked, "can't we agree that there must be some level of lighting that this Board could find that is fine? Otherwise, what good is the law? If we are going to say, no lighting, but we have a standard that says it can not be unreasonably or have unreasonable glare, we got to have a standard. I'm not entirely clear on jurisdiction of the Board on this. Again, appellate jurisdiction. I'm not saying that the Board can not do what it's going to do. But as far as the record goes, Jorge, I think, had to make an original determination. Then someone can appeal Jorge's determination. Then we can ask Jorge questions about why he made a determination. Why was it objectionable? I've asked each Board member - well I haven't asked each, I've asked you Mme. Chairman, why was it objectionable? So far it is because it can be seen."

The Chairman said, "it is not just that it can be seen. It's that it lights up the night sky. It obscures what ever stars you might see. If you are looking down East Lake Street down to the Lake you can't see anything but the lights. If there was moonlight tonight, it wouldn't make a

difference. As you look down the lake there, you would see only the lights from that.” Langey said, “this is a Village property. You indicated yourself where you live in the Village, it’s very difficult to see the stars.” The Chairman said, “it is, and it’s very frustrating. But, it’s not like this. It’s difficult where I am with porch lights. That’s the difference.” Langey asked, “but, does it meet the standards that we are dealing with tonight? Does the lighting in other places in the Village meet that standard?”

Member Phinney said, “I’m not sure if we could even say that there is as bright a spot anywhere else in the Village that what we observed this evening. I went and drove through the Village to look for another brighter illuminated building or house, and couldn’t find one.” The Chairman said, “we don’t have light meters.” Member Phinney said, “the equipment says - again it might be to your benefit to perhaps look at it when it is illuminated to see what we are discussing and why we feel the way that we do regarding the intrusiveness of it.” Langey said, “but there has to be standards, yes.” The Chairman asked, “don’t you think the neighbors should have a say on what those standards are? If it’s objectionable to the neighbors?” Langey said, “not what the standards are. I don’t think that they can interpret (multiple conversations) ..Jorge interprets...” The Chairman said, “I do. I think that is our job as this Board.” Langey said, “again, I would suggest that – I’m not trying to say that the people don’t have a chance to speak but, first of all, what is the jurisdiction of this Board? What is it that you are trying to do?”

The Chairman replied, “I’m trying to get a public hearing on this, and I’m going to figure out a way to do it.” Langey asked, “a public hearing to do what?” Member Phinney said, “to review why the 1985 condition was not adhered to, perhaps.” Langey said, “the 1985 condition does not apply to this. That was a different ???” Member Phinney said, “you are choosing in your position to say that it does not apply because – but it refers to a tennis court. The tennis court. You’ve merely move the tennis court and the rules don’t apply anymore?” Langey said, “in 2007 the variance was granted.” Member Phinney said, “without the information that you have now providing us regarding illumination.” Langey said, “you wouldn’t have to. There’s nothing in the Code that says you have to show any lighting on it. Where does it say in the Code that you have to show lights?” (Multiple conversations) The Chairman said, “that’s the letter but not the spirit of it.” Member Crompt said, “I don’t think you want to go there with that.”

The Chairman said, “the Mezzalinguas are very nice people. We worked a long time with Andy. I don’t think that this was intentional by any means. But I think instead of making a big confrontation, we ought to be looking for a solution.” Langey said, “yes, I agree.” Member Phinney said, “we are heading off on a wrong track here.” Mezzalingua said, “this was not intended to be confrontational in any stretch. We are 2 or 3 weeks ago at Planning, and there was questions over the small meeting. We solved them and the Planning Board never questioned about jurisdiction. And there was a lot of chin rubbing - what should we do? It could have gone any which way. I think we suggested – someone suggested maybe it should be looked at by this Board and then a week into it, Andy called me and said hey, Jorge found something about 1985 and then we looked at the law, and said how are we going to interpret this stuff. Because of the lack of clarity around – who’s supposed to handle this, and what the law says, we said well how do we get some sense into this? I’ve been here and I feel like I have a permanent seat here. I’ve had discussions with the neighbors multiple times. I would prefer to work this out neighbor-to-neighbor. If they say higher trees, more of them here, evergreen – I don’t really know these

people. We've met once in ten years – about 100 feet away or so or maybe 200 feet. That's obviously preferable. In the summer actually, I can't even see their house. Right now I can see the color of their couch – a plaid design. In the summer where there's green between that boarder, I can not even see the house. So, the trees are much higher. I'm sure we can reinforce that on a year round basis. I would love to talk with them. I never got a call from them on it. I would love to sit and talk with them."

Chairman Banuski said, "it is not just them, because now that I've seen it I can see that it effects neighbors all around you." Mezzalingua said, "they are the only one's who mentioned something now." The Chairman said, "right, but the reality is when you said that you drove around looking for other bright lights, and the reason you didn't find them tonight because the football field wasn't lit. I'm a block from the football field. I'm telling you, when those lights are on you can't see – they don't shine. There's no shadow cast. You could take your little light meter and it wouldn't register anything in my yard, because the light is going up. It ruins the night sky. For the people who live around there who have more of an open sky than I do, it must be horrendous. Just as the multiple tennis courts that are lit do. We have these wonderful facilities in our Village. We have tennis courts that we keep lit year-round, day and night, for what ever reason, I don't know. But they are there and no one ever uses them. So, now it seems like we are building another tennis court that has lights on it. When if you want to play tennis at night why can't you go there? I know that has nothing to do with the law. I know. You are shaking you head and telling me, and I get that. This is me as a citizen saying where does it end? How many lights are we going to turn on?"

Mezzalingua said, "I will say that no one else, you say that no one else has mentioned – when I moved here in 1999 or 2000, I had no idea of – I've heard everything. Look, I've learned a lot about easements, variances - things that I never even dreamed of. I certainly know enough that if someone is going to say something, I'm going to hear it. They'll typically say – many times they come to me and say, what did you do that for? Ok, let me understand this. So, I would love to work it out. I never got that call. I'm pretty certain that I would get that call because I've spoken to my other neighbor about it and he said your trees cover it. I have a neighbor who would look down on it, who would be more effected. Those trees are a year old." Attorney Galbato asked, "the Weidors?" Mezzalingua said, "the Weidors."

Galbato said, "I would like to say first Jorge Batlle as the Code Enforcement Officer is the enforcer of our Zoning Law. It would be up to him to determine whether there's a violation of 225-27A which states that *no land use activity shall be permitted in and district unless they shall comply with the following standards. A. No offensive or objectionable migration or glare shall be noticeable at or beyond the property line.* So if this Board had an opinion about that, tonight or the next meeting, it would be a recommendation to Jorge. But Jorge would be the one to issue a citation for a violation of that Code. (Cassette 2) ... someone appealing that determination by the Code Enforcement Officer. Having said that, I also think that this Board – first of all I also want to point out that the reason it started out at the Planning Board is that Jorge sent an e-mail to the Planning Board as well as Andy Ramsgard, and Andy responded that he wanted it on the December 3rd Planning Board agenda. A lot of times that saves the applicant a meeting – instead of starting at the ZBA, they start at the Planning Board for a recommendation. Because this Board could determine that the applicant needs to get – this Board needs to

determine whether or not the variance that was granted in October 2007 needs to be amended because the maps that were approved as part of that variance did not show the fixtures and the lighting, when this Board issue the variance – and when the Planning Board at that time in 2007 issued a recommendation for approvals of those variances for the tennis court. That’s where I think that this Board has some jurisdiction and thoughts and what you contemplate the issues handled.”

Member Phinney said, “we are also talking about...” “I just want to say one thing. Read the paragraph about objectionable glare one more time. I am going to key on a word,” asked Batlle. Galbato reads, “no offensive or objectionable vibration or glare...” “...let’s take the word objectionable – somebody objects - I have a letter of objection. Case closed. It comes to a Board. I don’t need to go out and see it. I have a letter of objection. My opinion would be subjective – it’s my opinion. I have an objection from a taxpayer,” said Batlle. Langey said, “I’ll let counsel talk to you about that. As far as confrontational, please, don’t misunderstand. I didn’t come here with the intention of trying to make it confrontational. What happened was that I heard 3 of the Board members before I ever spoke say yes, this didn’t look good to me. I wouldn’t want to live near it. So once the 3 people spoke, I did the math and said that this isn’t going very well.” Member Phinney said, “good counting.” Langey said, “should I just keep my mouth shut and get a terrible decision from the Board? Or do I do what I did? I’ve been doing this for 19 years and I represent a lot of zoning boards of appeals, and what I tell them is take a look inside your code. I never tell you to check your common sense. That’s the best thing you’ve got with you, and I think I’m hearing from some of the Board members, hey, we are trying to use our common sense as we are dealing with this thing. But in the end, because it’s a zoning code, because it takes away our personal rights to use our private property, we have to be very, very careful that we don’t go outside of what’s in the code to what personally appeals or doesn’t appeal to us. When we get to that point, we throw the laws out the window. We really do. I have a lot of boards that love to either grant or not grant stuff and I see them get into trouble ???please find that in the code before we go down that road. When I started with Cazenovia they were granting special use permits and site plans. We didn’t have a site plan law on the books and they were granting the site plans. You can’t do that. You have to have standards. What I’m suggesting is that what Andy has shown you is from the science. It seems absolutely conclusive that there shouldn’t be, at least shouldn’t be objectionable. Now, the public can come and speak to it and that’s terrific and fine. But I don’t know if it’s going to change the science. Maybe it could.”

The Chairman said, “but the science doesn’t speak to what you see as you come over the hill. That’s the reality. You can talk about candle feet and what I could see there was truly, the lights and the beams down – when you leave the tennis court they are no longer beaming down on the periphery.” Langey said, “the law should say that. That’s a good point. The law should say that you can’t see it from a certain distance or what ever it is that you feel is what’s a problem. Then it can go to the Village Board of Trustees and they can enact a law that captures that feeling of the Board, what it’s going to be objectionable. Actually, your analogy with the pornography made some sense to me this way. When we all sat down in the 70s and the 80s and started writing our adult use laws, you guys probably have one here too. Instead of saying hey, nothing pornographic – now you have those uncomfortable words in our definitions that says you can’t see any – that word, that word. That’s why we did that when we wrote it because we kept loosing cases. We go into court and say, well you can’t have this type of a club here because it’s

objectionable to us. And the courts would say geeze, love to help you but it's not written exactly right so go back. And that's how we started to draft those laws that way. I'm just suggesting that we take a look at what the science is before we use our personal things. I'm certainly not saying that the neighbors shouldn't have a say. If you are going to have a public hearing, by all means have a public hearing. I do have an issue with the procedural stuff but, if you look at the paperwork on that you'll see it. It's laid out there. I don't want to beat that horse any further."

Member Phinney said, here is something that I was going to say – these probably won't be utilized for a good 4 months. We do live in Upstate. The reality is we probably will have inclement weather pretty much up until the Spring. That's a lot of time to try and work something out. Or to see whether there are other people that have conversations, whether it's informal or formal. Or whether it's a formal hearing, informal hearing or whether you talk to the Easters or don't talk to the Easters. So, maybe there should be maybe just a little bit of take a deep breath and see if you can have a conversation with the Easters and find out what their specific concerns are regarding that. Then perhaps, move on from there as to which direction we want to go. There is no need to do something necessarily this evening for something that isn't going to take place for a good 4 months.. unless El Nino wanders through here and it goes the wrong way - and we are all in trouble. But it sounds as if you are willing certainly to have some form of communication with them. I have run into Guy Easter twice in the 30 years that I have been here. So, I'm not sure if he's around town a lot or not in town a lot at all. I don't know what other people think. I think there is certainly some room for that – discussion to be taken place and maybe to find out why – and also to look at it at night when the lights are on. It's sticks right out there for sure."

Langey asked, "is the idea of a planting of trees was helpful? I know John mentioned it. I never told a client to spend that kind of money because I know what that could cause. But, is that something that the Board would encourage a discussion about?" Member Phinney replied, "to me, I think when Lisa mentioned the football field, I think that's almost the best comparison. Not because of the size. But the light on the football field is the same way. It doesn't go beyond the field. However, I live half a mile away and I can see the light going up like a spot light coming out of the football field at night. So you know that something is there and it's up and it's in. The light coming from the property was up. It wasn't out." The Chairman said, "that would be less without the snow. There is no question that the snow we all know is very reflective and made that more than it was." Member Phinney continued, "but I saw more intrusion this way and certainly none this way as Andy's showing and as the statistics show."

Ramsgard said, "I spend many evenings coming back, because I do a lot of work in Ithaca – coming back through Frozen Ocean. I know, even in the wintertime, when I can see the water towers, these water towers from Frozen Ocean, because those lights are not very bright. But they are on a face, just like theater lighting. Theater lighting depends - all lighting depends on having it hit a surface. If you take a flashlight and be an astronaut out in space, and you shine it away from – into space, you can't see the light. But, if you move an object into the foreground, you can see that light because light has to bounce off of an object for you to see it. It's a simple principle. One of the things that John talked about is – what I would love to see come out of this whole thing besides the neighbors getting along, would be a model ordinance be adopted for lighting. There's other communities that have struggled with this, and I would be happy to bring

you one tomorrow because I have one because I've worked with other communities to develop their model ordinances. Other people have figured this stuff out. But you do have to quantify every particular light because as you get into site plans, and you get into not just tennis courts, but other lighting on people's properties, pole lights that ??? into the property. You have to start to talk about it because it's not just tennis courts. If you are going to talk about is a light objectionable? A very tiny light, a very tine light can drive you crazy. I can literally give you an example. I work with research and a lot of companies around the world. One of the things that they do with Alzheimer's patients is they use colored light. They have realized that that can help in the care of an Alzheimer's patient. Because what they use is blue light as the most visible light that the human eye can see. It's the most active light. It helps keep people to stay awake. A red light is the least wavelength that people see. So, what they'll do is Alzheimer's patients typically wear out care givers because they exhaust them because they are up for 7 days continuous. And a care giver can't be there. So, what they'll use is they'll use blue light to stimulate them to help keep them awake when they need to and not keep them crashing. When they need the patient to crash they change the light to a red light which basically lets them down and helps them sleep. There's an enormous amount of research on what light should be exiting a property and how car light effect night vision and how street lights effect night vision. There's an enormous amount of research about gas stations and how too bright of a light at a gas station can be very dangerous when somebody drive underneath a shell and looses their night vision and has to get back out into traffic.

So there are very scientific standards that have been created to say – this is what you have to do in a residential property. A tiny little light could be an effect. But if you get into every property with site plans, any time anybody adds a light it's going to have to come and be reviewed. But in Jorge's case I like his opinion that if somebody objects to it then it comes before the Board. You can have a quantifiable standard of yes, this is objectionable because of some science, it takes you out of the objectivity role. As a Board members that deals with a lot of objectivity on the Historic Commission, I love it when I don't have to be subjective.”

Mezzalingua said, “the common sense approach. I would certainly be willing to do what ever it took to create a foliage blind to block, shield the neighbors. Good relationships and hopefully we will be there a long time and our kids will be here a long time. I certainly would take you up on that. If that makes sense. I don't have a grasp of ??? a Board??? Seems reasonable and I certainly would do that. I don't know – I kept saying I don't know them. I don't know how they receive. I'd love to have a conversation maybe some gentle urging by this body to encourage a come together to try to work it out – new standards which are probably not my business, might assist a good neighborly discussion.”

Member Crompt said, “then a public hearing would be in order then.” Chairman Banuski said, “I agree. I thin we should do that.” Mezzalingua asked, “so not pursue the other approach?” The Chairman said, “I think we should do a public hearing. One of the reasons is – I know you say that you have ??? the neighbors and they are willing to come forward and that kind of thing. But, I find in neighborhood disputes often times people are comfortable when they come to a setting like this – a situation where they are being asked for their input. Not where they are coming up and knocking on your door and saying gee, I don't like your lights. I think that it is easier for a lot of people to speak in this kind of format. And I do think with notification that

goes out for that with the area of the neighbors that are most effected would be given essentially an invitation to come and give their opinion, or to write a letter. So, I would prefer to pursue it that way.

The flip side of that is, I'm pretty sure, and I can't speak for the whole Board, but knowing how we have voted and worked together the last couple of years, my guess is had we seen plans that this was going to be lighted, we would have stopped it then. We probably would have said then, well we've looked at this before and maybe not light the tennis courts. So, I think that part of us is feeling that that happened then it kind of got by. The other long term good thing that's going to come from this is that every time we see any huge future tennis court – or...”
“...swimming pools,” added Member Crompt. The Chairman continued, “ the issue with swimming pools is a safety one so that's a little bit different. But lighting is and can be very intrusive and I from my point of view again this is one point. Some else objected, so it's objectionable. I also would object. So, that would be my recommendation. I would **move that we set this up for a public hearing at our January 2010 meeting.**”

Seconded by Member Crompt. The vote was 5-0 in favor of the motion. The motion was carried. The meeting was closed at 9:15pm.