

Supervisor Grace and Councilman Bernard Misrepresent Tree Law

By Susan Siegel

The issue is one of honesty and transparency. Can we believe what our elected officials are telling us?

When Supervisor Grace interrupted a speaker during the September 20th public hearing on the Tree Law, he said he wanted to correct the speaker's misrepresentation of the facts and not let them stand.

I agree. Misinformation should be corrected as soon as possible. Which is the purpose of this article. To correct the many erroneous statements made by Supervisor Grace and Councilman Bernard. Regrettably, space limitations prevent me from correcting ALL the blatantly false and/or misleading statements made by these two elected officials.

Exemption of town-owned land

Councilman Bernard said that even though town owned land didn't have to get a permit, the public would have input on any town plans to cut down trees at a public hearing. **NOT TRUE.**

If the town doesn't need a tree permit, there's no requirement for a public hearing. The town could cut down trees on town land without notifying the public. And, when Supervisor Grace bemoaned the removal of the cherry trees on Underhill Avenue, he failed to mention that they were cut down by the town.

May versus shall for referrals to the Conservation Board (CB) and Tree Conservation Advisory Commission (TCAC)

Supervisor Grace and Councilman Bernard both downgraded the significance of requiring referrals to the CB and TCAC for tree permit applications and mitigation plans. **NOT TRUE/MISLEADING.**

Councilman Bernard said the Town Clerk's office made referrals to the advisory boards all the time. What he failed to say is that the Clerk's office refers out only applications made to the Town Board, not the Planning Board. (In fact, the draft of the new tree law was never referred to the Conservation Board!) He also **falsely** stated that the town's Land Development Regulations governing new development applications require the Planning Board to refer out applications.

Supervisor Grace said that that the Town Board or Planning Board could get a lot more out of developers if members of the boards sat down and negotiated with them. True, but that's not the role of the TCAC or CB; their role is to provide expert, specialized evaluations. Why does the Town Board want to disregard this valuable resource?

Appeal process

Supervisor Grace said that the provision in the new law that gives the Town Board the right to hear appeals of Planning Board tree permit decisions was also in the 2010 law. **NOT TRUE.**

The only appeal to the Town Board in the 2010 law was for permit decisions made by the Town Engineer. The 2010 law clearly stated that Planning Board decisions could be appealed by filing an Article 78 lawsuit, a provision that was consistent with New York State law governing Planning Board approvals.

The supervisor also never acknowledged the legal and planning problems that would be created by the new law: Since Planning Board site/subdivision plan approvals always incorporate the conditions of a tree permit, if, as allowed under the new law, the Town Board modified the tree permit, the site/subdivision plan might also have to be modified. And, since, by law, the Town Board does not have the power to modify site/subdivision plans, the plans would have to be returned to the Planning Board. That, in turn, could trigger a host other needed modifications that would lead to further delays.

Empowering the Tree Conservation Advisory Commission

Supervisor Grace said the new law will give the TCAC more power to insure a healthy town forest. **NOT TRUE/MISLEADING.**

True, the law gives the TCAC more tasks, but the “empowerment” argument is hollow and specious as the new law doesn’t give the TCAC any authority or resources to carry out its tasks. The new law actually WEAKENS the role of the TCAC because it doesn’t require tree permit applications or mitigation plans to be referred to the group for review and comment.

Mitigation

Supervisor Grace had a lot to say about how the new law had stronger mitigation provisions, i.e., measures that developers would have to implement to compensate for the removal of trees resulting from their development plans. **NOT TRUE /MISLEADING .**

The 2010 law REQUIRED mitigation if more than 30% of a protected woodland was disturbed; under the new law, mitigation is OPTIONAL and may be required only for loss of trees, not loss of woodlands.

Supervisor Grace said many times that his goal was for the mitigation to be carried out off site on town owned property. But if developers aren’t required to do any mitigation, what’s the purpose of empowering the TCAC to develop a mitigation plan for town owned property?

Neighbor vs neighbor disputes

Supervisor Grace made repeated statements about wanting to avoid these disputes, leaving the impression that this was a major problem. **UNSUBSTANTIATED/MISLEADING.**

The supervisor never substantiated his claim. He never presented any evidence of the number of such disputes. The one case he cited involved a very contentious major site plan approval currently in litigation. His comments also ignored those of a professional arborist who stated that in other towns, the permit requirement actually REDUCED neighbor vs neighbor disputes.