On June 9, 2020, the Zoning Board of Appeals heard the case brought by the Webster Citizens for Appropriate Land Use to interpret the Zoning Code relative to the proposed CEA Fresh Farms lettuce factory. Our attorney and one of our members did an excellent job of summarizing the many reasons why this project is an industrial use of the land, and therefore not permitted in its zoning district, while the company's attempt to rebut this argument was flimsy and centered upon the false premise that what is clearly an industrial operation utilizing relatively new technology somehow fits our code's allowance of 'customary agriculture'. As several board members pointed out, acres of multi-story buildings generating artificial light and consuming the electricity and water equivalent to nearly 9,000 homes are more appropriately considered factories than greenhouses, and certainly not 'customary' agricultural use per the dictionary definition of 'customary' and 'agricultural', having nothing to do with the cultivation of soil and certainly not commonplace or standard practice in farming.

The code was adopted in 1969 and since that time the customary form of agriculture in Webster and the surrounding area has been a farmer's market or plowed fields; grazing livestock; and buildings for storage, sheltering livestock, and nominal processing of product on the way to market. If the farmer's market or a farm erects a greenhouse, the town's tax assessor will not include it in a property's assessed value because greenhouses are considered temporary and when removed the land can be returned to active farmland. We do not consider a field with over 54 acres of growhouses as customary agriculture in Webster, particularly as the structures proposed by the applicant are constructed on concrete pads, which cannot easily be removed to return the land to a plowed field or for grazing livestock. This would be true even if the applicant did not intend to level grade and remove all of the topsoil, which will, along with all of the other necessary alterations to the land to prepare it for industrial use, forever and significantly impact the land such that it will be next to impossible to return it back to farmland. That impact along with all other impacts is akin to an industrial development that would require a variance to be located on the property that is zoned Large Lot residential.

Another point of contention was the attempt to dismiss a clause in our zoning code which limits lot coverage on agricultural land. An item in our zoning code, 225.73D, specifies that development on agricultural land be subject to the 'provisions and restrictions' of R3 zoning, except where the specifications in the section on agricultural uses contradict the R3 specifications (hence, 'except as in hereinabove provided'). The company attempted to argue that this restriction only applies to the residences for farm laborers mentioned in the previous code item (225.73C). As our lawyer and one Zoning Board member pointed out, this cannot be the case because if that interpretation were the intention of the code, it would have been either part of the previous item, or specifically defined as applicable to 'farm labor residences', or even an indented sub-clause to the previous item-- as is the case for contingent and subordinate items in all other parts of the code. Finally, were this item contingent upon the previous item only, the phrase 'except as in hereinabove provided' would be unnecessary, as the term 'hereinabove'-- not 'in the previous item', but 'hereinabove'-- essentially makes that item contingent upon all other items, items which do not reference residences for farm laborers. All other items in that section of the code are not subordinate to one another, so arguing that this subsection is somehow different is an arbitrary misinterpretation.

The Zoning Board spent a lot of time debating the “intent” of the drafters of the Code as they tried to understand some of the finer points of the cases made by the two parties. Given that we will likely never know the intent of each word, the overall intent is right there in the preamble of the LL Residential District code. Section § 225-12 states: “The intent of the LL Zoning district is to encourage large-lot residential development in areas where conditions of the environment, availability of utilities and surrounding land use patterns dictate that residential densities and the amount of land covered by impervious surface remain low.” We submit that none of the individual statutes in the Code shall contravene this intent, and this intent shall inform the interpretation of the Code.

The Zoning Board should apply common sense to their ruling that this development does not belong in the Large Lot residential zone. The code was written for a reason, and it was not merely to facilitate development, but to regulate it on behalf of the Town's citizens, who should not be subject to industrial uses in zoning districts that are clearly intended to be residential. As is obvious to most who look at the industrial nature of this project, and as is evidenced by the thousand petition signatures and hundreds of opposition letters, a rural residential area in Webster is quite clearly not the right zoning area for a grow factory.