

# Redistricting limbo

## With election already underway, state judge strikes down districts

By David Ambro

A Republican judge from Steuben County, in upstate New York, has thrown the 2022 election into a temporary state of uncertainty.

Acting State Supreme Court Judge Patrick McAllister ruled last week that congressional districts and state legislative districts established by the New York State Legislature in January are unconstitutional and ordered that current campaigns be delayed so that new districts can be drawn for the November election.

In 2014, New York State voters passed a constitutional amendment that created the Independent Redistricting Commission (IRC) to redraw congressional, senate and assembly district lines in New York based on the federal census conducted every 10 years. After months of work, which included extensive public outreach and two partisan competing plans, the commission, a 10-member panel with five Democrats and five Republicans, emerged deadlocked and ceded control of the redistricting to the state legislature, which created the new districts.

Judge McAllister heard oral argument in the case March 3 and March 31 and heard testimony from several experts in the case. In an 18-page decision Thursday, March 31, Judge McAllister ruled that the process used to enact the 2022 redistricting was unconstitutional. He found that the petitioners were able to prove beyond a reasonable doubt that the map enacted by the legislature is politically bias and thus violated the Constitution.

Judge McAllister concluded in his decision that the legislation enacted by the legislature in November 2021 to create the IRC is unconstitutional and a clear violation of the expressed desire of voters statewide to amend the Constitution so that the IRC creates new districts and not the state legislature and ordered that it be stricken from the books.

In his ruling, Judge McAllister further grants

a permanent injunction refraining and enjoining the state from implementing the new districts for the June 2022 primary or the November 2022 general election. He also orders that the legislature to create new "bipartisan supported" district maps by April 11, and if it does not, he intends to retain neutral experts at the state's expense to prepare new district maps.

The lawsuit was brought by 14 Steuben County residents against Governor Kathy Hochul, Lieutenant Governor Brian Benjamin, who is president pro temper of the State Senate; Senate Majority Leader Andrea Stewart-Cousins; Speaker of the Assembly Carl Heastie; the New York State Board of Elections, and the New York State Legislative Task Force on Democratic Research and Reapportionment. Immediately after the McAllister decision was released Governor Hochul and State Attorney General Letitia James announced that the state intended to appeal the ruling to the State Supreme Court Appellate Division.

During an interview Monday, April 4, Robert Zimmerman, a Democratic candidate in the Third Congressional District, said he expects the McAllister decision to be overturned on appeal. Like most other candidates in the race right now, Mr. Zimmerman said he is forging ahead with his campaign in the Third Congressional District enacted by the State Legislature in January and expects that the primary will continue to be held in that district in June.

"They found a Republican Judge in Steubenville who overturned it and I have every expectation his decision will be overturned on appeal and the lines are not going to be overturned," Mr. Zimmerman said. "Frankly, you focus on what you can control and I am keeping my head down and staying focused on my race and not worrying about the courts. But from what I am hearing I have every expectation the districts will be upheld."

State Senator James Gaughran (D-Northport) said the State Supreme

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# 'Paved paradise...'



St. James artist Arline Goldstein, a founding member of Celebrate St. James, with artwork she prepared to emphasize her opposition to the Gyrodyne development plan.

# Planning board approves Gyrodyne plan over objections of residents, local officials

By David Ambro

Despite intense community opposition, over the objections of elected officials from Head of the Harbor Village and the Town of Brookhaven, and without consideration of an alternative plan to preserve open space submitted by the St. James Head of the Harbor Neighborhood Preservation Coalition, the Smithtown Planning Board voted unanimously March 30 to advance the Gyrodyne industrial development plan on the 75-acre site on the southeast corner of Route 25A and Mills Pond Road.

The Planning Board first voted unanimously to approve the findings and conditions of the State Environmental Quality Review Act (SEQRA) environmental impact statement. The community had asked to comment about the findings before the vote, intending to ask the town to undertake a supplemental environmental impact statement to consider inaccuracies in traffic data and to also include the Mills Pond Historic District in its analysis.

The Planning Department, however, provided a litany of the application and environmental review process that started in 2018 and concluded that by law no further public comment is required on the environmental

impact statement. The Planning Board then voted to approve the findings statement, closing the environmental review process.

The Planning Board next considered a resolution to grant preliminary subdivision approval to the Gyrodyne application. The subdivision includes plans for a hotel, medical office buildings, assisted living facilities and a sewage treatment plant designed to be expanded to also handle the capacity from a sewer line on Lake Avenue in St. James.

The resolution for preliminary approval included three conditions: A) that prior to final approval a stormwater pollution prevention plan be submitted to the town as required by the town code; b) that the subdivision map be revised to reflect the conditions of the SEQRA environmental impact statement findings; and C) that the common areas designated as lot seven of the subdivision be divided into separate lot numbers.

Joseph Bollhofer, who resides near the site in St. James and has a law office on Lake Avenue and who has been a spokesman for the Gyrodyne opposition, was first to speak. He said the Gyrodyne environmental impact statement (EIS) fails to adequately address traffic and contradicts trial testimony by Gyrodyne experts in 2010.

"The testimony of Gyrodyne experts in 2010 is completely at odds with what Gyrodyne represented to the town and the public in its Environmental Impact Statement (EIS) and other recent statements," Mr. Bollhofer said. "The traffic study in the EIS is rather cryptic, only addresses peak rush hours and frankly concludes, without any logical explanation, that the traffic problems can be solved with the installation of traffic signals and turning lanes."

He said it would be a disservice to the people in the community to approve the Gyrodyne subdivision. He urged the planning board to consider a compromise plan submitted by the Coalition to compensate Gyrodyne for the land and preserve the site. "You should also know that state and county elected officials in this area are on board with this proposal," he said. "I urge town officials with authority, to join with those state and county officials, and private parties who are also interested, and concentrate their efforts on finding the money to compensate Gyrodyne for its property and make what I consider to be the only logical solution a reality, preservation of the open space."

Before the vote on the resolution there was nearly a two hour public hearing

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