

Town Board Minutes  
Town of North Castle  
15 Bedford Road  
Armonk, New York  
on  
June 25, 2008

Supervisor Berman called the meeting to order at 6:30 p.m. and the following persons were present:

Supervisor	Reese Berman
Councilmen	Rebecca A. Kittredge Gerald K. Geist Michael J. Schiliro William R. Weaver
Town Clerk	Ann Leber
Town Counsel	Roland A. Baroni

The meeting was immediately adjourned into Executive Session to discuss a personnel matter and litigation. The Executive Session was closed at 7:30 p.m.

The regular meeting was reconvened at 7:35 p.m.

The minutes of the Public Hearings which commenced at 8:00 p.m. follow at the end of these minutes.

Councilman Kittredge moved, seconded by Councilman Weaver, approval of the minutes of the Special Meeting of June 9, 2008, and the regular meeting of June 10, 2008.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Diane Roth, Co-Chair of the North Castle Beautification Foundation, thanked Co-Chair Lisa Holmes and Robert Dean, owner of Naturescapes, for their donation of fifteen hanging baskets on Main Street. Mr. Dean explained how a special irrigation system will help keep the flowers fresh for the season.

Supervisor Berman made the following announcements:

- Summer hours for clerical employees, from July 1<sup>st</sup> through August 29<sup>th</sup>, are 8:00 a.m. to 4:00 p.m. in all Town buildings, with the exception of the Court Clerk's office that maintains its regular hours of 8:30 a.m. to 4:00 p.m.
- A new sculpture named Eclipse is on display on the lawn at Town Hall. Supervisor Berman thanked the Stratis Family of *The Studio* in Armonk for installing sculptures on a rotating basis at no cost to the Town.
- At Westchester County's "Plastic Bag Day at Playland" on June 28<sup>th</sup> children who turn in 100 or more clean plastic bags earn free rides.
- A Westchester Philharmonic performance and a fireworks display will take place on July 3<sup>rd</sup> at Kensico Dam Plaza in Valhalla.
- Volunteers are needed for the Town's Home Delivered Meals program. Supervisor Berman said she had been a volunteer for this program which has a time commitment of approximately one hour per month. Please contact Kathy Lynch at the Recreation Department at 273-3500, ext. 500 for more information.
- Work on Washington Avenue and Washington Place curbs and sidewalks is due to be completed soon with Community Development Block Grant (CDBG) funds from Westchester County.
- Con Edison continues to ask that all residents please use energy wisely. Report power interruptions or service problems to 1-800-75-CON ED (1-800-752-6633) with your account number available, if possible; report whether your neighbors have lost power.

- The I-287 reconstruction project will continue during the summer, with periodic travel delays likely.

Supervisor Berman presented plaques to the following Boys and Girls Staters, in recognition of their participation in governmental action and their distinguished records of achievement: Brian Rudolph, Peter Skurman, Daniel Vellone, Brendan Fischer and Stefanie Goldberg.

Councilman Kittredge moved, seconded by Councilman Schiliro, the appointment of April Paresi as a member of the Recycling Committee, to serve at the pleasure of the Board.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Weaver moved, seconded by Councilman Schiliro, the award of the bid for the Quarry Heights sewer system to Joken Development Corp. Supervisor Berman made the following statement.

“We have just awarded the construction bid for the laterals in Quarry Heights from the sewer trunk line to the residents’ properties. Once we notify the County of our action, they will award the bid for the sewer trunk line. Work on the laterals should begin within the month and should be completed before year’s end.

“This is truly a momentous occasion long awaited by the residents of Quarry Heights. It is the result of very hard work by this administration and Town Board. There are many people to thank.

“I thank my assistant, Sharon Tomback, whose persistence and efficient handling of this issue deserves to be recognized by all.

“I thank the 50 residents who have made a financial commitment to this project; for some, it was a difficult burden. We did not award the bid at the last Town Board meeting because at that time we had checks from only 32 residents. Those 18 from whom we have received checks these past two weeks have joined the others to make this project a reality.

“I thank those residents from Quarry Heights who joined the Town Board members in reaching out and talking to their neighbors who were reluctant to make the necessary financial commitment.

“I thank the members of the Town Board for their extra efforts.

“I thank those who provided well over a million dollars of grant funding:

\$312,500 from the East of Hudson Fund;

\$482,100 from the EPA through Congresswoman Nita Lowey’s efforts;

\$200,000 from CDBG funds with a promise of an additional \$46,500

\$150,000 from New York State through Assemblyman Adam Bradley’s efforts.

\$46,500 from the NWWC Supervisors who voted unanimously to support the additional East of Hudson funds

“Special thanks also go to Joken Contracting who agreed to reduce the amount of the bid by \$31,500 and to Dolph Rotfeld Engineering, in particular John Avelino, who spent many extra hours beyond what the contract covered, to answer my and residents’ questions.

“We are grateful to Westchester County for committing up to \$3,250,000 for the sewer trunk line.

“Although this sewer project involves less than 60 homes, its location just above the Kensico Reservoir, which is the last holding reservoir for New York City’s and much of Westchester’s water supply, made this project of paramount importance.

We are very proud of this accomplishment.”

Councilman Kittredge commented that the residents of Quarry Heights have been paying sewer taxes for over fifty years and that it is time they get sewers. Councilman Geist agreed and said the Town has benefited from the leadership and tenacity of Supervisor Berman who pulled together different facets of government to make this project a reality.

Councilman Kittredge moved, seconded by Councilman Geist, receipt of a letter and draft local law from Director of Planning Adam Kaufman regarding amending the Town Code to provide additional regulation for fixed improvements in Town-regulated Middle Income Units, and scheduling of a public hearing for July 23, 2008. The Board asked Mr. Kaufman to revise the draft local law to separate those upgrades that would increase value of MIU s from those that would not, such as luxury upgrades of countertops and appliances.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Per the request of the NYS Department of Transportation, Councilman Geist moved, seconded by Councilman Weaver, the adoption of a resolution supporting the recommendations contained in the Frederick P. Clark Associates, Inc. study entitled “Traffic and Safety Analysis – Route 22 Study – North White Plains” dated July 2007 and requesting the NYSDOT to implement all the recommendations. Town Clerk Leber will forward the resolution to the DOT per its request.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a memo from Director of Planning Kaufman regarding Archer Stables detailing the Planning Department’s comments on the application for an amended special use permit. Mr. Kaufman provided an overview of the Procedural and Special Permit comments. He said the current special permit allows for a maximum of two horses per acre. The horses must be fenced and cannot intrude within the Town-regulated wetland buffers, but that all or a portion of thirteen of the paddocks appear to be located within these buffers. With regard to Site Plan comments, Mr. Kaufman said he did not expect the applicant to address these issues in the first draft, but they will need to be addressed. Councilman Geist said the application is violating the spirit of the special use permit that was previously granted. Jeff Brown, Banksville Residents Association, expressed his concerns regarding apartments that would be provided for grooms who would manage the horses stabled on the site. Mark Miller of Veneziano & Associates, representing Revilo Holdings LLC, owner of the property, said they have come before the Board on an informal basis and that Mr. Kaufman’s letter will help frame the dialogue. He said they would review the letter and decide whether to continue the dialogue or submit a formal application.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Kittredge moved, seconded by Councilman Weaver, receipt of a letter from the Westchester County Department of Planning regarding its preliminary decision for use of East of Hudson Water Quality Investment Program Funds for the Quarry Heights Sewer Project. Supervisor Berman explained that the Westchester County Board of Legislators is considering an authorization to disburse an additional \$46,500 in funds.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Upon the recommendation of General Foreman Useted, Councilman Geist moved, seconded by Councilman Kittredge, approval for the award of the bid for Precast Concrete Structures (Catch Basins) to M & M Precast and Chemung Supply, the lowest bidders.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a letter from 155 Lafayette Avenue Corp. with regard to an application for an Amendment to Section 213.21 of the Town Code to add "Parking" as a principal use in an IND-A zoning district; and further moved that the matter be referred to the Planning Board for its study and report; and the Town Board declare its intent to act as lead agency for environmental review under SEQRA. Alan Singer, representing the owner, 155 Lafayette Corp., explained that the parking lot at their property at 155 Lafayette Avenue cannot accommodate the needs of the tenant, Diebold Corp. He said if the requested zone text amendment application is approved, the vacant property at 160 Lafayette Avenue could be used for overflow parking. Director of Planning Kaufman explained that parking is an acute problem in the IND-A zoning district, particularly in North White Plains. He suggested that the Board consider providing additional off-street parking in the IND-AA (airport) zoning district as well.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Kittredge moved, seconded by Councilman Weaver, that a memo from Kellard Sessions Consulting, P.C., with regard to the Vincent Lane roadway dedication (North Castle Estates Subdivision) be tabled pending receipt of a maintenance bond and all necessary documentation by the Town Attorney.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Kittredge moved, seconded by Councilman Weaver, receipt of a mortgage tax update from Finance Director Dawn Donovan.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Weaver moved, seconded by Councilman Schiliro, receipt of a letter from Verizon Wireless requesting permission to place a wireless communication facility on Water District No. 2 property (Windmill gravel pit). The Board asked Town Clerk Leber to contact Verizon to make a presentation at a Town Board meeting detailing the installation location, height, etc.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, receipt of a Special Use Permit application from Empire State Towing for a tow yard at 152 Virginia Road and a recommendation from the North Castle Planning Board regarding the application. A public hearing was scheduled for July 23, 2008. Councilman Geist requested that notification of the meeting be sent to the North White Plains Neighborhood Association and the residents who spoke at the public hearing regarding approval of the zone text amendment.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, a resolution to authorize the Supervisor to apply for and execute an agreement for a NYS Grant for financial assistance for the Clove Road Park Enhancement Project. Supervisor Berman explained that this funding is in

addition to the funding provided by the Community Development Block Grant (CDBG) from Westchester County.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of a letter from Westchester County Department of Health with regard to the North Castle sewage treatment facility composite sampling results. The results indicated that the sewage treatment facility was working in a satisfactory manner.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Upon the recommendation of Superintendent Barnard, Councilman Kittredge moved, seconded by Councilman Geist, approval of the award of the bid for Lombardi Park Road and parking lot improvements to DeRosa Tennis Contractors, Inc., the lowest bidder, in the amount of \$429,540.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Pursuant to a memo from Director of Finance Donovan, Councilman Geist moved, seconded by Councilman Kittredge, authorization for the following Amendment to the 2008 Capital Fund Budget:

H 1000.5031	Interfund Transfer	+79,540
H 7110.0432.9100	Parks Improvement (Lombardi Park)	+79,540

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Upon the recommendation of Town Attorney Baroni, Councilman Weaver moved, seconded by Councilman Schiliro, revision of the Town's policy governing the disposition of used vehicles and equipment to include Internet auctions.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Upon receipt of a letter from Lisa Friedlander, Councilman Geist moved, seconded by Councilman Weaver, authorization for Finance Director Donovan to reimburse Ms. Friedlander \$200 for screening rights to "Who Killed the Electric Car", shown on May 1 and May 18, 2008 at the H.C. Crittenden School.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Kittredge moved, seconded by Councilman Weaver, that the Supervisor be, and hereby is authorized, to make the budget transfers that follow at the end of these minute.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Kittredge moved, seconded by Councilman Geist, authorization for the Supervisor to sign the bus lease agreement between North Castle Recreation and Parks Department and Byram Hills Central School District for the term June 30 – August 30, 2008.

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The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, authorization for the Supervisor to sign documents for Hewlett-Packard Financial Services Company in connection with a lease purchase agreement for computer hardware and software for the Police Department.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Schiliro moved, seconded by Councilman Kittredge, the appointment of the following as members of the Global Warming Task Force to serve at the pleasure of the Board: Dr. James David Lewis, Roseanne Bleier, David Ettenson, Caryl Hahn, Jim Olivo, Maggi Pack; Jeannette Koster and Dian Robertson will serve on the Task Force as non-resident ad hoc members.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Kittredge moved, seconded by Councilman Geist, acceptance of the resignations of Lisa Friedlander and Karen Johnson from the Global Warming Task Force, effective immediately.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, that summonses and verified complaints in the matter of the Whippoorwill Hills Homeowners Association, Inc. v. Town of North Castle, et al., be referred to the Town Attorney.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, that a public hearing be scheduled for July 9, 2008, to consider an open space acquisition of the Falzarano/Spinelli parcels using previously approved bond proceeds.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Resident Sue Shimer asked the Board if meeting documents could be made available prior to the meetings so the public could make more informed comments. Supervisor Berman said that her request would be considered. Mrs. Shimer commented, that with respect to the application for veterinary center at 135 Bedford Road, the Board may want to consider what appears to be spot zoning.

The Town Board audited and approved payments totaling \$622,691.92 as indicated on Warrant #12.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 10:30 p.m. in memory of Juliana Affrunti, daughter of Mr. and Mrs. Frank Affrunti, Eleanor Schnoor, and Judy Willsey's father.

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Ann Leber, Town Clerk

Dated: July 7, 2008

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PUBLIC HEARING

June 25, 2008

At 8:00 p.m. Supervisor Berman stated that a Public Hearing would be held in accordance with the Public Notice that follows:

NOTICE IS HEREBY GIVEN THAT the North Castle Town Board will hold a Public Hearing on June 25, 2008 at 7:30 p.m., or as soon thereafter, at North Castle Town Hall, 15 Bedford Road, Armonk, New York 10504, for the purpose of considering a local law to amend Chapter 107 (Fire Prevention) of the Town of Code to require installation of sprinklers in all new residential and commercial buildings.

The Public Notice read by the Town Clerk was marked Exhibit "A" for the record.

The Affidavit of Posting calling the Public Hearing was marked Exhibit "B" for the record.

The Affidavit of Publication from The Journal News calling the Public Hearing was marked Exhibit "C" for the record.

A Full Environmental Assessment Form was marked Exhibit "D" for the record.

John Heimerdinger, Chairman of the Sprinkler Committee, which began its work approximately 18 months ago, explained that the need for sprinkler systems has increased over the years due to the size of new homes (8,000 square feet+), modern truss construction, and the use of more flammable materials which increases the thermal load of today's fires. In addition, there are no fire hydrants in many areas of North Castle. All of these factors increase the risk of injury or death to residents and firefighters.

At Supervisor Berman's request, Mr. Heimerdinger summarized the essential components of the proposed law. He added that sprinklers only activate in the room (s) where there is heat and that early control by just one head saves lives and property. Sprinklers will be required in non-residential buildings when there is a change of use which "would result in a more intensive use or increased occupancy..."

Mrs. Berman stated that the law cannot take effect before it receives New York State approval and that the Town has to give time to projects in the pipeline.

Fire Inspector William Richardson noted that some of the other communities that have a sprinkler law are Greenburgh, Ardsley, Harrison, New Castle, Ryebrook, Sleepy Hollow and Tarrytown.

Resident Ilana Adler, Banksville Road, asked how many fire-related deaths have occurred in North Castle in the last several years. When Building Inspector Richard Fon replied "Four," Mrs. Adler said "That's four too many."

Resident Sue Shimer, Pond Lane, questioned the seeming redundancy in Section 107-6-A-1, which requires installation of a sprinkler system in all occupied buildings, including but not limited to all residential and commercial buildings for which building permits are issued...." It was decided to add the word "new" between "all" and "residential."

The language in Section B was clarified by adding the words "for the alteration or restoration" after the words "plans and specifications." Additionally, in the Gross Floor Area/Threshold for Sprinkler Installation table, the square footage numbers were changed slightly so they don't overlap.

Town Attorney Baroni suggested that Section 4, Effective Date, be change to Filing, and that a Section 5, Effective Date, be added stating that the law "shall be effective ninety days

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subsequent to receipt of approval of said local law by the NYS Fire Prevention and Building Code Council”.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman Kittredge moved, seconded by Councilman Geist, that the Public Hearing be closed at 8:20 p.m.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Weaver moved, seconded by Councilman Geist, that based upon review of the Environmental Assessment Form and all other materials, it has been determined that there will be no significant adverse environmental impact and the Town Board hereby adopts a Negative Declaration.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman

Noes: None

The Town Board then considered and thereafter unanimously adopted the following Findings:

1. All three operating fire departments in North Castle are completely volunteer based organizations.
2. Many of the town's residential neighborhoods do not have fire hydrants.
3. The Building Inspector has documented for the Town Board the changes to the NYS Building Code allowing for different types of construction methods and materials which can have a material impact on fire fighting.
4. Newly constructed and renovated residences are much larger and taller with the concomitant difficulties in fighting a fire.
5. Recognized data and statistics that severity of fires are reduced by sprinklers and that the cost is not overly burdensome in relation to the cost of construction.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman

Noes: None

Councilman Kittredge moved, seconded by Councilman Geist, approval of Local Law 11 of the year 2008, as revised above, to amend Chapter 107 (Fire Prevention) of the Town of Code to require installation of sprinklers in all new residential and commercial buildings. The Local Law follows at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Supervisor Berman said that we owe our thanks and appreciation to our volunteer firefighters and emergency service workers.

North White Plains Fire Chief Matthew Manfredi said the Town Board made a life saving change tonight by adopting the legislation.

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Ann Leber, Town Clerk

Dated: June 30, 2008

**TOWN OF NORTH CASTLE**

**Local Law No. 11 For the Year 2008  
(Adopted June 25, 2008)**

**A local law to amend Chapter 107 (Fire Prevention) of the Town of North Castle to require installation of sprinklers in all new residential and commercial buildings.**

**Section 1.** Create a new Section 107-6 as follows:

ARTICLE III

§ 107-6. Sprinkler requirements.

A. Installation of a sprinkler system is hereby required:

- (1) In all occupied buildings, including but not limited to all new residential and commercial buildings for which building permits are issued on or after the effective date of this section.
- (2) In all existing buildings used for nonresidential purposes for which a certificate of occupancy is required at the time of a change of use, whether or not a building permit is required, if the Building Inspector, in consultation with the Town Fire Marshal, determines that the change of use would result in a more intensive use or increased occupancy creating a greater potential risk of loss, injury or damage in the event of a fire.

Such systems shall be designed and installed in accordance with the standards of the National Fire Protection Association and such systems shall be comprised of equipment listed and approved by Factory Mutual, Underwriter Laboratories Inc. or other nationally recognized approval organization as may be approved by the Town Fire Marshal.

B. No building permit shall be issued for the construction of any occupied building or alteration or restoration of any portion thereof or addition thereto, which construction, alteration or restoration calls for an increase in the floor area of such building as described in the following table, unless the plans and specifications for the alteration or restoration incorporate a sprinkler system for that new portion of the building complying with the provisions of this section and are signed and sealed with respect to such sprinkler system by a New York State Registered Engineer:

Gross Floor Area of Building	Threshold for Sprinkler Installation
3,000 square feet and less	50% construction, alteration or restoration
3,001-5,000 square feet	40% construction, alteration or restoration
5,001-7,000 square feet	25% construction, alteration or restoration
7,001 square feet and larger	20% construction, alteration or restoration

In the case of repairs of damage from fire, storm or other act of God resulting in structural damage to any building to the extent of 50% or more a sprinkler system shall be required for the entire structure, if insurance allows.

C. No certificate of occupancy shall be issued for occupancy or use of any building, structure or portion thereof required to have a sprinkler system pursuant to this chapter unless such system is installed, inspected, tested, approved and certified by a New York

State licensed professional engineer or licensed architect that the installation complies with the plans which were submitted.

- D. Exception. Sprinklers shall not be required to be installed in spaces where the discharge of water would be hazardous as determined by the Town Fire Marshal. Applications for exception shall be made, in writing, to the Fire Marshal with copies filed with the Building Inspector. All determinations of the Fire Marshal made hereunder shall be in writing and shall be mailed to the applicant and filed with the Building Inspector. In such places, other approved fire-extinguishing equipment should be provided, as approved by the Fire Marshal of the Town of North Castle. In addition, the provisions of this chapter shall not apply to the extent existing state law exempts premanufactured housing.
- E. Application for variances from the strict application of this chapter shall be made to the Zoning Board of Appeals pursuant to the following procedures:
- (1) Grounds for appeal. The grounds for such appeal shall consist of:
    - (a) Economic hardship.
    - (b) Inability to achieve a valid state or federal policy.
    - (c) Physical or legal impossibility.
    - (d) The intended objective of the regulation cannot be met without a variance.
    - (e) Compliance with the regulation is unnecessary as there is a more viable alternative.
  - (2) Time to file appeal. The time in which to file an appeal under this chapter shall be no more than 90 days from the date of the determination as to the necessity for the installation of a sprinkler system.
  - (3) Pursuant to Town Law § 267, Subdivision 5, the Zoning Board of Appeals shall decide such appeal within 60 days after the date of the final hearing. However, failure to render a decision within said time period shall not be deemed an approval of the application.
  - (4) Pursuant to all other procedures set forth in Town Code §§ 213-66 and 213-67.

**Section 2.** Conflicting Standards.

Where the requirements of this Local Law impose a different restriction or requirement than imposed by other sections of the Code of the Town of North Castle, the Town Law of the State of New York or other applicable rules or regulations, the requirements of this Local Law shall prevail.

**Section 3.** Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid part or parts.

**Section 4.** Filing.

This Local Law shall be filed with the Secretary of State of the State of New York.

**Section 5.** Effective Date.

This Local Law shall be effective ninety (90) days subsequent to receipt of approval of said local law by the New York State Fire Prevention and Building Code Council.

Dated: June 25, 2008

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PUBLIC HEARING

June 25, 2008

At 8:20 p.m. Supervisor Berman stated that a Public Hearing would be held in accordance with the Public Notice that follows:

NOTICE IS HEREBY GIVEN THAT the North Castle Town Board will hold a Public Hearing on June 25, 2008 at 7:30 p.m., or as soon thereafter, at North Castle Town Hall, 15 Bedford Road, Armonk, New York 10504, for the purpose of considering a local law to establish a new “veterinary specialist & emergency center” permitted Town Board special use principal use in the CB, IND-A, IND-AA, RELIP AND PLI Zoning Districts, create associated special use permit requirements, create a definition for “veterinary specialist & emergency center” and create an off-street parking requirement for “veterinary specialist & emergency center.”

By Order of the North Castle Town Board  
Ann Leber, Town Clerk

Dated: June 13, 2008  
Armonk, New York

The Public Notice read by the Town Clerk was marked Exhibit “A” for the record.

The Affidavit of Posting calling the Public Hearing was marked Exhibit “B” for the record.

The Affidavit of Publication from The Journal News calling the Public Hearing was marked Exhibit “C” for the record.

The green cards denoting mailing to and receipt of certified mail by adjoining property owners were received and marked Exhibit "D" for the record.

A memo from the Director of Planning Adam Kaufman dated May 23, 2008, a letter from the North Castle Planning Board dated May 28, 2008, letters from Veneziano & Associates dated January 17 and June 4, 2008, a letter from Mary Padilla dated March 31, 2008, and the Notice of Intent and EAF which were mailed June 12, 2008, were marked Exhibit “E” for the record.

Mark Miller of Veneziano and Associates, representing the property owner and petitioner Joron Associates, LLC, said they were seeking a zone text amendment to permit to establish a veterinary specialist and emergency center at 135 Bedford Road in the Central Business Zoning District. The facility would also need a special use permit and site plan approval. He continued, saying that the tenant, BrightHeart Veterinary Centers, has its headquarters at 80 Business Park Drive and a facility in Katonah which was toured by members of the Town Board and Planning Board.

In response to Supervisor Berman’s request that he address concerns regarding noise and odor, Mr. Miller said the building is located several hundred feet from the nearest residence in Wampus Close; the exercise area where dogs are walked is in the rear of the building near Route 22 and is screened by the building itself; all animals will be indoors from 10 p.m. until 6 a.m.; usually they walk one dog at a time; odor is an engineering issue. He asked the members of the Town Board who had toured the Katonah facility to confirm that it was odor-free. In response to the Supervisor’s query, Mr. Miller said concerned residents could arrange to tour the Katonah facility by calling the Veneziano office.

Norma Hill, Wampus Close, said she has a dog and an open mind, asked for an explanation of a zoning change and a special use permit. Town Attorney Baroni said that the zoning code would have to be changed to permit the use, which would allow the use as-of-right with Planning Board site plan approval. The Town Board could layer in special use permit approval to allow for specific written conditions, offering greater protection.

Ms. Hill asked why a second facility is planned when there is already one located in Katonah; said she thinks that 6 a.m. is too early to allow the animals outside; expressed her concerns regarding traffic impacts; asked how many runs were planned; and inquired about parking requirements. Mr. Miller responded as follows:

Only one run will be provided.

One parking space per 250 square feet is required (94 spaces).

There will be approximately 35 employees during the day shift and 10-12 doctors with a maximum of 37 patients on site.

John Collins, traffic engineers, took traffic counts while school was in session. The proposed use would generate less traffic than the current permitted use as office space or a medical office. The intersection of Bedford Road and Maple Avenue currently operates at Level C and will continue to do so with the proposed use plus the anticipated traffic from the Armonk Square project.

BrightHeart needs more room, and the Katonah office and the Armonk facility will offer some different services.

When Ms. Hill repeated her concern regarding noise, George Cinquegrana of BrightHeart said that the walking area is not a pen and that the animals are sick, sometimes sedated, and quiet. Supervisor Berman said the hours when animals are allowed outside could be changed if there is too much noise. Councilman Geist added that, if the terms of the special use permit are violated, the Town Board would remedy the problems. Mr. Baroni stated that notices of violation and summonses would be issued.

Mr. Miller said BrightHeart intends to be a good long-term neighbor. He said that, like any dispute between neighbors, he hoped that a resident with a complaint would contact the facility directly to resolve any problems.

Resident and former Town Justice Sue Shimer, Pond Lane, commented that the dog ordinance is enforced by the Dog Control Officer and the Police Department.

In response to questions from Steve Rosen, owner of 145 Bedford Road, Mr. Cinquegrana said there are approximately 30 doctors and staff in Katonah; they have a cat scan but he is not sure if they have an MRI. They see the Armonk facility as a complement to the Katonah one. Mr. Rosen said there are already problems with “dog traffic” from the groomer and veterinarian across the street. Supervisor Berman pointed out that feces should be picked up and disposed of as required by law. In answer to further questions from Mr. Rosen, Mr. Cinquegrana said that the Katonah facility provides general veterinary services and 24-hour emergency services. Mr. Rosen questioned the definition of emergency as any problem with a pet could be considered an emergency, especially when your vet’s office is closed.

A resident asked if the Armonk office will engage the services of a portable MRI housed in a tractor trailer. Mr. Cinquegrana said they have no plans for such an MRI and that the plans call for equipment to be housed inside the building. Mr. Baroni said that conditions could be imposed prohibiting tractor trailers on the premises.

Resident Neil Singer said he has a business in a neighboring building and is concerned about overflow parking. Mr. Miller answered that the 94 spaces should be adequate for doctors and support staff as well as referrals. Councilman Kittredge suggested issuing decals to cars that belong to the office building’s tenants. Mr. Rosen said he didn’t think decals would be feasible as his tenants all have service businesses whose clients visit during the course of the day.

Resident and commercial property owner Barbara DiGiacinto stated her opposition to the proposed use in the CB zone, saying it would be a good fit in the IND or PLI districts where The Gym and a spa are permitted. A business park setting can accommodate the use and alleviate stress on local roads. Ms. DiGiacinto urged the members of the Town Board and Planning Board to visit a state-of-the-art veterinary facility in a business park in North Yonkers. She then compared the North Yonkers facility with the proposed one in Armonk as follows:

	North Yonkers	Armonk
Size	16,000 sq. ft.	23,750 sq. ft.
Parking spaces	88	94

Referring to Section 3 of the proposed local law, Ms. Di Giacinto said she thinks it is unrealistic to prohibit overnight care of animals except *when necessary*, adding that the North Yonkers facility housed 17 animals last night. Per information obtained by Ms. Di Giacinto, emergency hours at the Yonkers facility are 6 p.m. to 9 a.m., with an average of 4-6 emergencies during the week and 8-10 on weekends. Ms. DiGiacinto again urged the Board to visit the North Yonkers facility to see how well it fits in a business park setting.

Robert Dean, owner of a neighboring business, said parking is an issue in the area and that school traffic is horrendous from 7 to 7:45 a.m. He asked if the parking requirement for the proposed facility is similar to that for a medical office. Mr. Miller replied that the Planning Board suggested adopting the same parking requirement as for a medical office but instead made it 50% greater.

Resident Carol Schreck asked if the traffic study took into consideration the traffic generated by the school. Mr. Miller responded yes. She then asked about who will address clean up around the site. Mr. Miller said the applicant is required to deal with all fecal waste and will keep the grounds clean. Enforcement is a Town responsibility, but he doesn't believe that will be an issue.

Councilman Geist suggested the Town Board adjourn the public hearing to July 9 so the applicant can address the issues that have been raised and supply additional information. He expressed his concern regarding the application to change the zoning code which should be reviewed globally with the future of the community in mind. Before the hearing is reconvened Mr. Geist said he would like to see the traffic impact study; how noise will be monitored and enforced; how the use would impact the CB district on Bedford Road; the environmental considerations and the impact on neighboring property owners; and what other options are open to the applicant. He would also like to be shown that the use is consistent with the Comprehensive Plan. Mr. Geist agreed to submit his questions to Mr. Miller and Mr. Baroni.

Councilman Kittredge asked if it would be a problem to change the time for the animals to be outside to 8 a.m. to 8 p.m.; to stipulate that trailers would be prohibited from the site; and to make the traffic study available. Mr. Miller agreed.

Councilman Geist moved, seconded by Councilman Weaver, that the Public Hearing be adjourned at 9:25 p.m.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

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Ann Leber, Town Clerk

Dated: June 30, 2008

Note: Public Hearing: June 25, 2008: Adjourned to: July 9, 2008  
Reconvened P.H. July 9, 2008

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PUBLIC HEARING

June 25, 2008

At 9:29 p.m. Supervisor Berman stated that a Public hearing would be held in accordance with the Public Notice that follows:

Town Board Minutes  
June 25, 2008

NOTICE IS HEREBY GIVEN THAT the North Castle Town Board will hold a Public Hearing on June 25, 2008 at 7:30 p.m., or as soon thereafter, at North Castle Town Hall, 15 Bedford Road, Armonk, New York 10504, for the purpose of considering a local law to amend Chapter 73 entitled Building Coder Administration and Chapter 183 entitled Taxation.

The Public Notice read by the Town Clerk was marked Exhibit "A" for the record.

The Affidavit of Posting calling the Public Hearing was marked Exhibit "B" for the record.

The Affidavit of Publication from The Journal News calling the Public Hearing was marked Exhibit "C" for the record.

Town Attorney Baroni explained that there is a typo in Section 73.4. In the phrase "Construction of retaining walls, all walls under four feet in height," the word *under* should be *over*. The amendment to Section 183.16 brings Town law into conformity with NYS law and with the Assessor's current practice.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman Kittredge moved, seconded by Councilman Schiliro, that the Public Hearing be closed at 9:30 p.m.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Kittredge moved, seconded by Councilman Geist, approval of Local Law 12 of the year 2008 to amend Chapter 73 entitled Building Coder Administration and Chapter 183 entitled Taxation.

The Local Law follows:

Local Law No. 12 of the Year 2008

A Local Law to amend Chapter 73 entitled Building Code Administration and Chapter 183 entitled Taxation.

Be It Enacted by the Town Board of the Town of North Castle as follows:

1. Section 73-4 Building Permits subsection B. Exemptions (4) is amended to read as follows:

Construction of retaining walls, all walls over four feet in height.

2. Article 5 Exemption for Volunteer Fire Fighters and Ambulance Workers Section 183-16 Exemption is amended to read as follows:

Real property owned by an enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service, or such enrolled member and spouse, shall be exempt from taxation to the extent of ten percent of the assessed value of such property for Town and Town special district purposes, exclusive of special assessments, as provided by Real Property Tax Law ' 466-d.

3. Effective Date: This Local Law shall take effect upon filing of same with the Secretary of State of the State of New York.

Dated: June 25, 2008

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Town Board Minutes  
June 25, 2008

Noes: None.

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Ann Leber, Town Clerk

Dated: June 30, 2008

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PUBLIC HEARING

June 25, 2008

At 9:30 p.m. Supervisor Berman stated that a Public Hearing would be held in accordance with the Public Notice that follows:

NOTICE IS HEREBY GIVEN THAT the North Castle Town Board will hold a Public Hearing on June 25, 2008 at 7:30 p.m., or as soon thereafter, at North Castle Town Hall, 15 Bedford Road, Armonk, New York 10504, for the purpose of considering a local law to amend Section 213-3 of the Town Code to include a new definition of family.

By Order of the North Castle Town Board  
Ann Leber, Town Clerk

Dated: June 5, 2008  
Armonk, New York

The Public Notice read by the Town Clerk was marked Exhibit "A" for the record.

The Affidavit of Posting calling the Public Hearing was marked Exhibit "B" for the record.

The Affidavit of Publication from The Journal News calling the Public Hearing was marked Exhibit "C" for the record.

Letters from Director of Planning Adam Kaufman dated April 9, 2008, the Planning Board dated April 29, 2008, the Notice of Intent and EAF which were circulated on May 7, 2008, the Westchester County Department of Planning dated June 4, 2008 were marked Exhibit "D" for the record.

Director of Planning Kaufman informed the Board that the Town's definition of Family in the Town Code has not kept up with the courts' rulings regarding the definition of a family. As a result, the proposed local law incorporates language that is consistent with recent court rulings. The Westchester County Planning Board questioned, however, the proposed reduction, from four to three, of the total number of unrelated people living together that constitutes a family. Mr. Kaufman indicated that the reduction was proposed since a new specific category regulating "housekeeping units" comprised of non-related individuals takes away the need in the old definition to permit a large number of unrelated people from living together and that is the Planning Department's opinion that three unrelated people (who are not a housekeeping unit) is a reasonable maximum for the definition of family.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman Kittredge moved, seconded by Councilman Schiliro, that the Public Hearing be closed at 9:35 p.m.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Town Board Minutes  
June 25, 2008

Councilman Kittredge moved, seconded by Councilman Weaver, that based upon review of the Environmental Assessment Form and all other materials, it has been determined that there will be no significant adverse environmental impact and the Town Board hereby adopts a Negative Declaration.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman

Noes: None

Councilman Kittredge moved, seconded by Councilman Geist, approval of Local Law 13 of the year 2008 to include a new definition of Family. The Local Law follows at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

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Ann Leber, Town Clerk

Dated: June 30, 2008

## **TOWN OF NORTH CASTLE**

### **Local Law No. 13 For The Year 2008 (Adopted June 25, 2008)**

#### **A local law to amend Section 213-3 of the Town Code to Include a New Definition of Family**

**Section 1.** Revise Section 213-3 of the Town of North Castle Code to replace the definition of FAMILY with the following in proper alphabetical order:

- FAMILY --
- A. One person or householder, plus one or more persons related to the householder or to the householder's spouse by blood, marriage, legal adoption or guardianship, along with live-in servants, living together and sharing meals in a domestic relationship as a single, not-for-profit housekeeping unit in a dwelling containing kitchen facilities;
  - B. A group of persons headed by a householder taking care of or responsible for the care of a reasonable number of dependent individuals in a domestic relationship that in theory, size, appearance and structure are the functional and factual equivalent of a traditional family of related persons living together and sharing meals as a single, not-for-profit housekeeping unit in a dwelling containing kitchen facilities; or
  - C. A maximum of three persons, not all of whom share a relationship as described in Subsections A and B

#### **Section 2. Conflicting Standards.**

Where the requirements of this Local Law impose a different restriction or requirement than imposed by other sections of the Code of the Town of North Castle, the Town Law of the State of New York or other applicable rules or regulations, the requirements of this Local Law shall prevail.

#### **Section 3. Severability.**

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid part or parts.

Town Board Minutes  
June 25, 2008

**Section 4.** Effective Date.

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.

Dated: June 25, 2008