

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
July 13, 2011

Supervisor Weaver called the meeting to order at 6:00 p.m. and the following persons were present:

Supervisor	William R. Weaver
Councilmen	Rebecca A. Kittredge
	Michael J. Schiliro
	Diane Roth
	John J. Cronin

Deputy Town Clerk	Barbara Pesquera
Town Attorney	Roland A. Baroni

Town Clerk Anne Curran was absent.

The meeting was immediately adjourned into an executive session which was then closed at 7:30 p.m. The regular meeting was reconvened at 7:35 p.m.

The minutes of the Public Hearing which commenced at 7:45 p.m. follow at the end of these minutes.

Supervisor Weaver said that Town Attorney Baroni, Director of Planning Adam Kaufman and he had met with representatives of Frederick P. Clark Associates to discuss the scope of the Formula Business Special Study and the Banksville Zoning Special Study. Mr. Weaver said that he was expecting proposals and detailed scoping documents to be submitted in the near future.

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of letter from Cablevision regarding the franchise fee audit for the period of July 1, 2004 through June 30, 2009 prepared by Ashpaugh & Sculco.

The roll call vote was as follows:

Ayes: Councilman Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Roth moved, seconded by Councilman Kittredge, receipt of a letter from the NYS DOT to Assemblyman Robert Castelli regarding poor pavement conditions of the State highways in Westchester County and the current lack of funds to repair them.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of NYS Supreme Court Appellate Division dismissal decision in the matter of Anthony Futia vs. William Weaver, Rebecca Kittredge, Michael Schiliro and Richard Fon. Supervisor Weaver said the legal costs that the Town incurred regarding this matter were \$40,568.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro receipt of letter from NY Power Authority regarding rate redesign conclusion and refund of over-collections of delivery charges in the amount of \$29,907.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

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Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of Notice of Claim from Laurie March and Robin Mueller, and referral to the Town Attorney.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Pursuant to a letter from Tax Receiver Colombo regarding a Consent Judgment for M.J. Lacav, LLC, Section 2, Block 16, Lot 11.B05, Councilman Kittredge moved, seconded by Councilman Roth, authorization to issue a refund in the amount of \$7,750.23.

The roll call vote was as follows:

Ayes: Councilman Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

The award of the bid for two highway vehicles was tabled pending the need to arrange for borrowing of funds.

Councilman Roth moved, seconded by Councilman Schiliro, receipt of Special Event Permit application from Haunted Dead End for a Halloween event to be held at Rocky Ledge Swim Club, 1402 Orchard Street during the month of October 2011, and further moved the scheduling of a public hearing for July 27, 2011.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Roth moved, seconded by Councilman Schiliro, approval of Change Order No. 1 in connection with the Water District No. 2 well integration project.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Pursuant to a request by Comptroller Gobeo, Councilman Kittredge moved, seconded by Councilman Schiliro, authorization for a budget transfer of a 2010 donation from the Armonk Lions in the amount of \$7,500 from the General Fund Donation account to a Trust & Agency donation account to be established for restricted use by the Armonk Lions Club.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, receipt of the Town Clerk's monthly report for June 2011.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, authorization for the Supervisor to sign an agreement to extend the cell tower lease with New Cingular Wireless PCS, LLC on the Sewer District No. 2 plant, commencing February 1, 2013.

The roll call vote was as follows:

Ayes: Councilman Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Roth, approval to exercise the option to extend the Sani-Pro refuse collection agreement for 2012, and for the Town Clerk to send notification of same.

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The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Schiliro moved, seconded by Councilman Kittredge, receipt, with regret, of a letter of resignation from Karen Gordon from the Architectural Review Board and the Armonk Hamlet Design Committee, effective immediately.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Cronin moved, seconded by Councilman Roth, approval of terminal leave pay for Anthony Futia.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the following items on the consensus agenda:

- Approval of the request of Assistant General Foreman Norris for release of bonds to:
 - a) Cablevision – Permits 0526, 0576, 0585, 0586, 0588, 0589, 0590, 0593, 0594, 0601, 0603, 0604, 0607, 0609, 0610, 0611, 0614, 0627, 0628, 0629, and 0631 for right of way work at various locations in the amount of \$15,750.00 to be reinstated to the \$50,000 bond.
 - b) Premier Energy Solutions – Permit 0613 for driveway alteration at 53 High Street in the amount of \$500.
 - c) Grant Schneider – Permit 0635 for driveway alteration at 10 Anthony Court, in the amount of \$500.
 - d) Matteo Maiale – Permit 0643 for driveway alteration at 5 Laurel Hill Place in the amount of \$500.
 - e) Ljubisa Jovasevic – Permit 0642 for driveway alteration at 6 Laurel Hill Place in the amount of \$500.

-Receipt of letters from Historical Society Trustee Judith Early regarding appreciation of Police and Highway Dept. assistance for Colonial Crafts Day

-Receipt of Workers Compensation Reports for a Highway Department worker and a Parks Department worker.

-Receipt of \$210 donation from Rose, Diane and Anthony Ardit from proceeds of a bake sale organized by Rose Ardit at St. Patrick's Church to support the DARE Program.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, authorization for the Town to bid the contract for road repairs on the following roads: Overlook Road, Washington Place East and Lafayette Avenue in North White Plains, Byram Lake Road, Evergreen Row and North Lake Road in Armonk, and Round House Court and East Middle Patent Road in Banksville.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

Noes: None

Councilman Kittredge moved, seconded by Councilman Roth, receipt of check from Crabapple Properties, LLC in the amount of \$200,000 representing replacement security for Cider Mill/Smith Cockren property.

The roll call vote was as follows:

Ayes: Councilman Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver

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Noes: None

Councilman Kittredge moved, seconded by Councilman Schiliro, approval for the Supervisor to execute a license agreement with Congregation B’Nai Yisrael of Armonk to permit maintenance of existing stone wall and landscaping along Banksville Road.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver
Noes: None

Councilman Schiliro moved, seconded by Councilman Kittredge, authorization for the Supervisor to sign an agreement with VHB Engineering, Surveying and Landscape Architecture, P.C. for pavement management services, conditional upon VHB’s authorization of the amendments to the agreement requested by Town Attorney Baroni.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver
Noes: None

Councilman Schiliro moved, seconded by Councilman Kittredge, authorization for the Town to apply to NYSDEC to modify the North Castle Sewer District No. 2 Waste Water Treatment Plant SPDES permit to increase the 30-day average flow limit from .045 millions of gallons per day (mgd) to .50 mgd; to name the Town of North Castle Town Board as Lead Agency for the SEQRA process; and to authorize the Supervisor to sign the NY-2A application and Short Environmental Assessment Form.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver
Noes: None

The Town Board audited and approved payments totaling \$541,388.55 as indicated on Warrant #12.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 8:55 p.m. in memory of residents Richard Finamore and Philip Young, and former resident Donald Schultz.

Anne Curran, Town Clerk

Dated: July 25, 2011

PUBLIC HEARING

July 13, 2011

At 7:45 p.m. Supervisor Weaver 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 public hearings on Wednesday, July 13, 2011, at 7:30 p.m., or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, New York, 10504, for the purpose of considering (1) the zoning petition submitted by Engel Burman at Armonk, LLC, contract vendee of the property located at 90 Business Park Drive, Armonk, New York (Section 2, Block 16, Lot 11B-8), which petition seeks an amendment to the Zoning Code of the Town of North Castle to allow assisted living communities as a special permit use within the PLI zoning district; and (2) an amendment to the Town Comprehensive Plan with respect to permitting a greater mix of uses in the PLI zoning district. The proposed Local Law and Comprehensive Plan amendment are available in the

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Town Clerk's office during regular business hours and on the Town's website. All persons having an interest in the matter are invited to attend and be heard.

By Order of the Town Board
Anne Curran, Town Clerk

Dated: June 29, 2011
Armonk, New York

The Public Notice 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.

Letter, with Zoning Petition and exhibits, from Anthony Veneziano, Veneziano & Associates, dated October 20, 2010, was marked Exhibit "D" for the record.

Letter from Director of Planning Adam Kaufman, dated March 1, 2011, was marked Exhibit "E" for the record.

Letter from Mark Miller, Veneziano & Associates, dated April 8, 2011, was marked Exhibit "F" for the record.

Letter from Edward Lashins, Member Westchester 90 Associates, LLC., dated May 2, 2011, was marked Exhibit "G" for the record.

Letter from Mr. Kaufman, dated June 24, 2011, was marked Exhibit "H" for the record.

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

The revised Local Law, dated July 13, 2011, was marked Exhibit "J" for the record.

Anthony Veneziano, Veneziano and Associates, appeared before the Board on behalf of his client Engel Burman. Mr. Veneziano provided a brief presentation of the project which received a conditional negative declaration from the Planning Board, the Lead Agency, on July 11, 2011. He said his client is applying for a special use permit for the property at located at 90 Business Park Drive in the Planned Light Industry (PLI) zoning district. The property consists of approximately 6.445 acres with a proposed assisted living facility of 140 units, with a total of 160 beds, on 3 acres of the total site and a reserve for a future building of 30,000 square feet of office space. Mr. Veneziano said there had been coordination with the Planning Board on traffic, sewer and water issues and with John Kellard on the issue of sewer capacity at the treatment plant. He said the project would have no impact on the school district.

In a response to an inquiry from Councilman Kittredge regarding the need for emergency services from Armonk's volunteer Fire Department, Steve Krieger, Principal, Engel Burman, said the assisted living facility, which would be licensed by New York State, would have a registered nurse on staff to monitor residents and a contract with a private ambulette company for non-emergency medical services, both of which would result in fewer emergency calls. Mr. Krieger said during a meeting with representatives of the Fire Department it was agreed that accommodations would be made for emergency vehicles to have access around the building which would be fully equipped with a sprinkler system.

Lydia Rippstein, School Street, asked how many emergency calls were expected each month and how the impact would be handled. Mr. Krieger said data has been provided to the Armonk Fire Department regarding emergency calls at three of their assisted living facilities operating in Long Island. The Armonk Fire Department will be confirming the data with these fire departments. Mr. Krieger said he would expect there would be approximately two to three emergency calls per month. Supervisor Weaver said he was at the meeting with the Fire Department and it was concluded that the facility would not be a burden.

Ann Dantzig, Orchard Drive, asked for a definition of assisted living and the types of the individual residences. Mr. Krieger said assisted living is for people who need assistance with the activities of daily living, such as eating, bathing and grooming; the facility would not treat people who are ill and who require nursing home or hospital care. He said the residents are provided with three meals a day in the facility's dining room, daily housekeeping and weekly laundry services, as well as social and physical activities. The facility will have studio, one and

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two bedroom apartments, and 'Friendship Suites' for residents requiring specialized care for dementia.

Supervisor Weaver confirmed with Mr. Krieger that the facility would have medical criteria for admission and for discharge. Mr. Krieger said they would have transfer agreements with several nursing homes for residents who become no longer suited for an assisted living community. He added that the units are rented on a one year lease, with thirty-days notice to move out of the facility.

Director of Planning Adam Kaufman provided a summary of the proposed amendments to the zoning code which would amend the PLI zoning district to include assisted living by Town Board special use permit. Mr. Kaufman said the proposed revisions would provide the ability for the applicant to potentially subdivide the property and build a second building of 30,000 square feet of office space. Other proposed changes include a reduction in the frontage requirement for assisted living, allowance of additional setbacks, and doubling of the density. Mr. Kaufman said that the change in the type of use in the Business Park and the density bonus are addressed in the Comprehensive Plan. Another modification includes placing the off-street parking regulations for assisted living with other off-street parking regulations in the Code. The revision to the law from its original draft expands where assisted living could be allowed in the PLI to four or five properties which would meet the criteria of a property over three acres, and within 500 feet of a state highway to ensure local access and limit the negative impact on local roads. Another amendment further clarifies the special permit approval process and states that if the Town Board issues a special use permit, a site plan is also required.

Mr. Kaufman and Town Attorney Baroni explained that the public hearing was also "noticed" to consider possible amendment to the Comprehensive Plan, but after formulating the proposed local law, it was determined that amendment to the Comprehensive Plan was not necessary since the proposed use was consistent with the Plan.

In response to an inquiry from Councilman Cronin on how the density bonus is being addressed, Mr. Kaufman said that the applicant had previously proposed a maximum FAR of .8, but this has been revised to a maximum FAR of .6 which he said is more reasonable and ties back to the Comprehensive Plan.

In response to an inquiry from Councilman Kittredge regarding water and sewer capacity issues being addressed, Mr. Kaufman said that the Planning Board has issued a conditional negative declaration subject to NYSDEC approval for the daily 50,000 gallon increase in sewer capacity which would allow for 500,000 gallons per day, up from the current 450,000 gallons.

Councilman Schiliro said that the concerns he had regarding sewer capacity, consistency with the Comprehensive Plan, including alternative housing choices for seniors and expansion of permitted uses which would not have an adverse impact, as well as effects on Town Police and Fire services have been addressed. Mr. Schiliro requested that Section 213-33(U)(2)(g) be revised to more clearly define other personal non-cash services, in addition to "hairstylist, banking, etc." which would be provided to residents. On the recommendation of Mr. Krieger, the Board agreed that the word "etc." would be eliminated from the legislation.

In a response to an inquiry from Mario Ruggiero, Limestone Road, regarding an estimate of the revenues to be generated from the assisted living facility, Mr. Krieger said he did not have an estimate at this time.

In a response to an inquiry from Lydia Rippstein regarding assisted living being allowed on other properties in the PLI, Mr. Kaufman said any application would be evaluated by the Town Board and require special permit approval.

Councilman Roth asked Mr. Kaufman if this project would have an impact on the sewer capacity which would be available for a future supermarket. Mr. Kaufman responded that there would be essentially no change to sewer capacity with respect to a supermarket since the existing A&P would close and the sewer use associated with that use would transfer to either the Armonk Square supermarket or the Business Park supermarket.

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 8:20 p.m.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

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Councilman Kittredge moved, seconded by Councilman Schiliro, adoption of Local Law 6 of the year 2011, to allow assisted living communities as a special permit use within the PLI zoning district.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Roth, Cronin, Supervisor Weaver.

Noes: None.

The Local Law follows at the end of these minutes.

Mr. Veneziano and Mr. Krieger thanked the Board for their support and said they will work with NYSDEC regarding the expansion of the sewer capacity.

Supervisor Weaver said that this type of housing is needed and will be a great addition and benefit to the community.

Anne Curran, Town Clerk

Dated: July 25, 2011

TOWN OF NORTH CASTLE

Local Law No. 6 For the Year 2011 (Adopted July 13, 2011)

A local law to amend Chapter 213 of the Town of North Castle Town Code with respect to permitted uses within the PLI Zoning District.

Section 1. Amend Section 213-21 of the Town of North Castle Town Code, Schedule of Office and Industrial District Regulations, Part 2, to add the following permitted principal use to the PLI Zoning District:

*10. Assisted Living Community, subject to the requirements of Section 213-33(U).

Section 2. Amend Section 213-33 by adding a new subsection, to be designated as Section 213-33(U) as follows:

213-33(U) Assisted Living Communities. In the PLI Zoning District, assisted living communities shall be subject to the following requirements, notwithstanding any other provisions of this Chapter:

- (1) Purpose. This use is established for the purpose of furthering the goals of the North Castle Comprehensive Plan by permitting the establishment of a specialized, for-profit assisted living development for the elderly, including a density bonus for this type of development. In such development, accommodation can be made for the range of needs of those elderly who neither want nor need placement in a hospital or nursing home. Assisted living communities shall be designed to achieve compatibility with their surroundings and to encourage orderly and well planned development. Assisted living developments shall be of a scale and location that will make it feasible to construct a comprehensive package of supporting utilities, services, and facilities, so as to achieve development which is environmentally, physically, visually, and economically sound. Certain accessory uses that are requisite, desirable, and convenient for assisted living for the elderly will also be allowed. Residents of an assisted living community have no need for schools and related services, nor do they require, in the aggregate, as many municipal services and facilities as compared to typical single-family housing or other types of senior housing.
- (2) Permitted Accessory Uses. The following accessory uses shall be permitted in conjunction with an assisted living community:

- (a) Indoor and outdoor recreation for residents and their guests.
 - (b) Continuing education, crafts and hobbies for residents and their guests.
 - (c) Living, dining, laundry, security and housekeeping facilities for common use of residents.
 - (d) Central kitchen for food served in dining areas or distribution to individual dwelling accommodations and units.
 - (e) Restaurant and/or dining room for residents and their guests.
 - (f) Medical and dental services for residents only with no cash transactions allowed.
 - (g) Small interior shops for the sale of goods or rendering of personal services (such as hairdresser, banking) only to residents, with no cash transactions allowed.
 - (h) Off-street parking areas.
 - (i) Signs and outdoor lighting.
 - (j) Kitchenettes in dwelling units.
 - (k) Other typical accessory uses associated with an assisted living community.
- (3) Physical Dimensional Requirements. Notwithstanding any other provisions of this Chapter, and provided that the original lot proposed for development of an assisted living community is located within 500 feet of a state road, not including an interstate highway, the following dimensional requirements shall apply:
- [w] Maximum floor area ratio for the assisted living facility shall be 0.60;
 - [x] Minimum front, rear, and side yards shall be 20 feet;
 - [y] Minimum building setback from a town road shall be 200 feet;
 - [z] Minimum lot size shall be 3.0 acres, provided that on a lot of more than 6 acres where an assisted living facility has been approved:
 - [1] the original lot may be subdivided and the resultant lot of no less than 1.5 acres may be developed for any permitted use in the PLI district;
 - [2] the minimum front, rear, and side yards for the resultant lot shall be 20 feet provided that building coverage is not greater than 30%;
 - [3] no building on the assisted living community lot or the resultant lot may be closer than 100 feet from one another nor less than 150 feet from an existing building on an adjacent lot;
 - [4] notwithstanding paragraph (3) immediately above, the resultant lot must have frontage on a state highway, and the original lot must have a minimum frontage of 25 feet;
 - [5] the minimum lot depth of the resultant lot shall be 100 feet.
- (4) Other Requirements. Where permitted, assisted living communities shall be subject to the following additional requirements:
- (a) Traffic access to any assisted living community shall be from a public street of adequate capacity and design to safely and conveniently accommodate the expected traffic from such use.
 - (b) The provision of vehicular and pedestrian improvements on and around the assisted living property necessary to mitigate any vehicular and pedestrian impacts associated with the operation of the assisted living community.
 - (c) All assisted living communities shall be connected to public water and sewer.

Section 3. Amend Section 213-45(A) to provide a parking requirement for assisted living communities as follows:

Use: Assisted living communities

Minimum Off-Street Parking (spaces): Not less than 0.3 off-street parking spaces for each assisted living unit therein, plus one space for each employee on the maximum shift.

Section 4. Amend Section 213-34 by amending the first sentence thereof to read as follows:

“No building permit shall be issued, and no structure or use shall be established or changed, other than for one single-family dwelling approved in accordance with the procedures specified

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in Article VII of this chapter, except in conformity with a site development plan approved and endorsed by the Planning Board with its date of approval, and no certificate of occupancy for such structure or use shall be issued until all the requirements of such site plan and any conditions attached thereto have been met.”

Section 5. Conflicting Standards.

Where the requirements of the 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 6. 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 7. Effective Date.

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

Dated: July 13, 2011