

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
October 26, 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
Town Clerk	Anne Curran
Town Attorney	Roland A. Baroni

The meeting was immediately adjourned into an executive session, which was then closed at 7:25 p.m. The regular meeting was reconvened at 7:35 p.m.

Supervisor Weaver presented a banner to the Armonk Baseball League 12+ Summer Team members: Andrew Zaccagnino, Gregory Giuliani, Jonathon Lattarulo, Nick Schaeffer, Matthew Milone, Joseph Rocco, John DiMarco, Tommy Bottiglieri, Louis Filippelli, Jake Tokson, Benjamin Selkin and Eli Sporn in recognition of the team winning the Westchester Putnam Baseball Association league championship.

Councilman Roth moved, seconded by Councilman Kittredge, approval of the minutes of the October 5, 2011 meeting.

The roll call vote was as follows:

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

Noes: None.

The minutes of the Public Hearings which commenced at 8:15 p.m. follow at the end of these minutes.

Councilman Kittredge moved, seconded by Councilman Roth, receipt of a Notice of Complete Application from NYSDEC regarding the wetland and open water mitigation at former Armonk Bowling Alley site.

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 for Assistant General Foreman Jamie Norris to go out to bid for a salt wash (truck wash).

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 mortgage tax update for September 2011 from Comptroller Dawn Gobeo. The projection for September is \$54,000 which is down from \$79,000 for the same month last year. The total estimated mortgage tax for the fiscal year, which ends September 30, 2011, is \$762,000; the budgeted amount was \$600,000.

The roll call vote was as follows:

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

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Noes: None

Councilman Roth moved, seconded by Councilman Kittredge, approval for the Supervisor to make the following budget transfers and adjustments as requested by Comptroller Gobeo:

From:			To:		
Appropriation			Appropriation		
<u>No.</u>	<u>Description</u>	<u>Amount</u>	<u>No.</u>	<u>Description</u>	<u>Amount</u>
A.1000.2680	Insurance Recovery	\$28,232.00	DA.5130.0213	Equipment Hwy	\$31,106.00
DA.8989.0432	Contract Composting	2,874.00			

To cover replacement cost of 2011 Chevy Silverado 250 Pickup Truck

The roll call vote was as follows:

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

Noes: None

Councilman Roth moved, seconded by Councilman Kittredge, authorization for the Supervisor to sign the 2012 renewal contract with Skyline Electric for street light maintenance in the amount of \$24,000.

The roll call vote was as follows:

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

Noes: None

Councilman Schiliro moved, seconded by Councilman Roth, authorization for the Supervisor to sign the retainer agreement with Best Best & Krieger LLP regarding the franchise fee dispute with Cablevision, at rates specified in the agreement.

The roll call vote was as follows:

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

Noes: None

Councilman Kittredge moved, seconded by Councilman Roth, authorization for the Supervisor to sign agreement with Dominican Sisters for provision of home delivered meals.

The roll call vote was as follows:

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

Noes: None

(Note: The agreement with Dominican Sisters was not signed by the Supervisor as the Town Clerk was notified that home delivered meals are not currently being delivered to any North Castle residents.)

Councilman Roth moved, seconded by Councilman Schiliro, the following items on the consensus agenda:

- Receipt of Notice of Claim and referral to Town Attorney regarding Chris Marinaccio vs. Town of North Castle.
- Receipt of Workers Compensation Reports for Highway Department employees.
- Approval of the request of Assistant General Foreman Norris for release of bonds as follows:
 - Legacy Development – Permit 0657 for driveway alteration at 2 Middle Patent Road, Section 1, Block 04, Lot 4.A in the amount of \$500.
 - Glenn Ikeda – Permit 0667 for driveway alteration at 6 Anthony Court, Section 2, Block 13, Lot 15.-1 in the amount of \$500.
- Receipt of Verizon franchise fee payment for 2nd quarter 2011 in the amount of \$19,437.14.

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 Roth, receipt of payment from Brookfield in the amount of \$1,276 for the sale of two Sewer and Water Department vehicles, 1993 Ford F250 and 1997 Plymouth Voyager Van, for scrap metal.

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 \$8,057,573.29 as indicated on Warrant #18.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 9:05 p.m. in memory of Dale Finnigan, father-in-law of William Gallagher, Sewer and Water Department.

Anne Curran, Town Clerk

Dated: November 10, 2011

PUBLIC HEARING

October 26, 2011

At 8:15 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 a Public Hearing on Wednesday, October 26, 2011, at 7:30 p.m., or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY 10504, for the purpose of considering the Special Use Permit application of 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), for a 140 unit assisted living facility.

The special use permit application is available in the Town Clerk's office during regular business hours. 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: October 10, 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.

Special Use Permit Application and exhibits from Anthony Veneziano, Veneziano & Associates dated August 8, 2011 were marked as Exhibit "D" for the record.

Letter from Director of Planning Adam Kaufman dated September 20, 2011 was marked as Exhibit "E" for the record.

Letter from Westchester County Planning Board dated October 26, 2011 was marked Exhibit "F" for the record.

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

The proposed resolution of approval.

Mark Miller, Veneziano and Associates, appeared before the Board on behalf of his client Engel Burman at Armonk, LLC. Mr. Miller said that the zone text amendment previously approved by the Town Board allowed for assisted living communities as a special permit use within the PLI zoning district. He said about two-thirds of the 6.44 acre property would be developed with an assisted living facility of approximately 119,000 square feet, with 138 units and amenities including a pool, walking path, and parking in accordance with zoning requirements. He added that the proposed facility would put the property, which had been approved years ago for 105,000 square feet of office space, to productive use and provide the benefit of allowing seniors to age in place with access to the downtown hamlet and their families. Mr. Miller said that as part of the environmental review, traffic concerns have been discussed, particularly at the intersection of Route 22 and Business Park Drive, and at Maple Avenue on the other side of Route 22. Mr. Miller said that his client has agreed to fund the traffic improvements recommended by F.P. Clark, up to \$30,000, including lane restriping and the removal of a three-foot wide median to allow distinct lanes, at NYS Department of Transportation standards, to permit left hand turns.

In response to queries from Mario Ruggiero, Limestone Road, and Lydia Rippstein, School Street, and Sara Doto, Hobby Lane, regarding potential increased demands from the facility on the volunteer Armonk Fire Department and emergency services, Mr. Miller said his client has given data regarding emergency calls from their facilities in Long Island to the Town's Fire Department, Police Department and emergency services. He added that the issuance of Planning Board site plan approval requires the Fire Department's satisfaction. Supervisor Weaver said a letter of support from the Commissioners and Fire Chief of the District to the Planning Board and the Town Board prior to the issuance of Planning Board Site approval is condition #5 of the special use permit approval. Mr. Weaver added that actual data will be provided from the facilities on Long Island regarding the average number of calls.

Steven Krieger, Principal, Engel Burman, said the assisted living facility would have a contract with a private ambulette company for non-emergency transport, as well as a nurse on staff to monitor residents on a regular basis as required by New York State Department of Health, both of which would result in fewer emergency calls. Mr. Krieger said if a resident needed to go the hospital it would be handled through the ambulette service.

Town Attorney Baroni said the Planning Board will address the detailed aspects of this issue in its site plan resolution based on study by the Fire Department. Mr. Baroni said if the Fire Department finds that the data from the applicant shows more emergency calls than expected, there would be negotiations with the applicant. Mr. Baroni said the permit would fail if the condition is not met.

In response to a query from Stuart Kovensky, Long Pond Road, regarding the additional tax revenues to the Town when the project is complete, Mr. Krieger said that the current taxes on the property of approximately \$50,000 would increase substantially. Mr. Baroni said the amount would be based on a percentage of construction costs, and ultimately the determination of the Assessor.

In a response to a query from Councilman Cronin regarding recreation fees, Director of Planning Adam Kaufman said that since the applicant has elected to provide recreation area for its residents, no recreation fees would be collected.

(Note: Planning Board Resolution dated November 21, 2011 states the following condition must be met prior to issuance of a building permit: payment of the recreation fee in the amount of \$1,000 for each new assisted living unit, for a total of \$136,000, unless the Planning Board upon recommendation of the Parks and Recreation Board waives this recreation fee.)

In response to a query from Mr. Kovensky regarding nurses being on site at the facility, Mr. Krieger confirmed there would be a full-time nurse, and explained that an assisted living facility is not for sick people who require nursing home or hospital care. It is a non-medical model which assists people with the activities of daily living, such as eating, bathing and grooming.

In response to a request from Councilman Schiliro for information about a typical resident, Mr. Krieger said the person would be in the early to mid-80s who may have been living alone due to the death of a spouse, who is not socializing and not cooking for themselves. He said the residents are active people who are provided with three meals a day in the facility's dining room, as well as various social and physical activities, including a cinema, gym, café, hair salon, arts and crafts center, and a bus for shopping and cultural events.

In response to a query from Councilman Kittredge about residents from the facility using the Town recreation center, Mr. Krieger said they would not be using it, but Town residents would be invited into the facility.

Supervisor Weaver asked Mr. Krieger to provide information about the admission criteria. Mr. Krieger explained there is a screening process and people who require high acuity care would not be admitted. There are also discharge criteria for residents who become in need this level of care. Mr. Krieger said the facility would not be a continuing care retirement community, accommodating residents through the stages of independent living, assisted living and nursing home care. He added that there would be no doctors on staff, but a podiatrist would come into the facility. In response to a query from Councilman Kittredge, Mr. Krieger said physical therapists would come into the facility as well.

Councilman Roth said the facility would provide flexible housing in the Town and benefit residents by having their parents able to live near nearby. Ms. Roth cited data that about 80% to 90% of residents of assisted living facilities or their children live within five miles of the facilities.

After confirming that assisted living residents would not pay real estate taxes since they would be renting their apartments, Mr. Kovensky expressed concern that additional tax revenues from the completed project could be less than an increase in school district taxes from the sale of homes by residents moving to the assisted living facility to residents with school-aged children. Matt Rice, Spruce Hollow, asked if a cost benefit analysis had been prepared and if there would be a burden on services. Mr. Krieger said the facility would generate more taxes than currently paid, would not be a burden on Town services, and would generate much less traffic compared to an office building. He said the facility would have major social benefits to residents, their children and grandchildren, as well as to the community. Mr. Baroni said the environmental analysis by the Planning Board concluded showed that the fiscal impacts of the facility would be minimal as most people in their 80s would have already liquidated their real estate holdings or be about to, as compared to people moving into an active adult community. Mr. Krieger said many seniors would be coming back to the community because their children want them to live closer. In a response to a query from Matt Rice regarding tax revenues, Mr. Baroni said the Assessor would not begin to formulate the assessment until she received construction drawings.

In response to a query from Mr. Ruggiero regarding outreach to children in the community, Mr. Krieger said the facility would have an inter-generational program with many activities for interaction between its residents and children of various ages.

In response to a query from Anthony Futia, Custis Avenue, concerning the Town's liability with regard to the affordable housing settlement agreement, Mr. Krieger said that since the facility would be financed with tax exempt industrial development bonds from Westchester County Industrial Development Agency, 20% of the suites would be set aside for residents who are 50% below the Westchester County median income.

With regard to a query about the use of the remaining property lot of approximately 1½ acres, Mr. Miller said there are no development plans for the lot. Mr. Baroni said that it was previously estimated that an office building of about 30,000 could be built at the location.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman Roth moved, seconded by Councilman Kittredge that the Public Hearing be closed at 8:50 p.m.

The roll call vote was as follows:

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

Noes: None

Councilman Roth moved, seconded by Councilman Kittredge, the approval of the special use permit application of 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), for a 140 unit assisted living facility subject to the conditions in the resolution.

The roll call vote was as follows:

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

Noes: None

The resolution follows at the end of these minutes.

Anne Curran, Town Clerk

Dated: November 14, 2011

RESOLUTION

Action:	Special Use Permit Approval for Assisted Living Facility
Application Name:	Assisted Living
Applicant:	Engel Burman at Armonk, LLC
Owner:	Westchester 90 Associates, LLC
Zone:	PLI Zoning District
Location:	90 Business Park Drive
Date of Approval:	October 26, 2011
Expiration Date:	October 26, 2012 (1 year)

WHEREAS, the Town of North Castle Town Board has received a special use permit application for the construction of a 140 unit assisted living facility on the 6.44 acre site; and

WHEREAS, an assisted living use requires the issuance of a special use permit by the Town Board; and

WHEREAS, on February 28, 2011, the Planning Board reviewed and discussed the project and and positively recommended that the Town Board consider the proposed special use permit (5-0 vote); and

WHEREAS, the application for special use permit was referred to the Westchester County Planning Board pursuant to Section 239 L, M and N of the New York State General Municipal Law and Section 277.61 of the County Administrative Code on September 20, 2011; and

WHEREAS, an October 26, 2011 letter from the County Planning Board states that a County stream channel permit is required, that a recycling area must be provided and be sufficiently large to accommodate the County's expanded recycling program, that a sidewalk is recommended to provide employees and visitors access to Bee-Line bus stops, that green building technology should be explored and that bicycle parking should be provided; and

WHEREAS, the proposed development will occur on a lot that is currently vacant, level and previously approved for development; and

WHEREAS, in 1985 the North Castle Planning Board approved a 104,283 square foot office building; and

WHEREAS, the site has previously been cleared of trees and a building foundation and storm drainage has been constructed on the site; and

WHEREAS, the Town Comprehensive Plan Update 1996 – Town Development Map identifies the subject site as within the “Light Industry/Office” category; and

WHEREAS, the Comprehensive Plan includes several recommendations relating to providing housing for older adults and providing varied housing choices that would support the Proposed Action; and

WHEREAS, the Proposed Action will generate significantly fewer trips during the Weekday Peak AM Hour and Weekday Peak PM Hour and similar generation during the Saturday Peak Hour as compared to the approved 104,000 square foot office; and

WHEREAS, the conservative traffic volume estimates for development of the subject property and recommended improvements for the intersection of New York State Route 22 at Maple

Avenue/Business Park Drive will be appropriate to address current concerns and accommodate future site traffic; and

WHEREAS, these improvements, identified in phases, will accommodate this and other nearby developments; and

WHEREAS, the Applicant has offered as mitigation, to implement a portion of the required improvements at this time; and

WHEREAS, specifically, the Applicant has offered the removal of the Business Park Drive median, the restriping of Business Park Drive exit into two lanes as well as the relocation of any traffic detection, as necessary; and

WHEREAS, the removal of the median will allow for two lanes to be provided at the exit of Business Park Drive and for the lanes to better align with Maple Avenue; and

WHEREAS, the applicant is proposing a stormwater management system which complies with NYSDEC SPDES and the Town of North Castle stormwater management requirements; and

WHEREAS, the system is comprised of stormwater quality and detention components which will be implemented to treat the water quality and detention flows leaving the site to pre-development conditions; and

WHEREAS, on November 4, 2009, the Town Sewer Capacity Task Force issued a final report to the North Castle Town Board which documented the Committee's review of the District's sewage treatment plant's available capacity, future flow projections and the Committee's recommendation regarding plant expansion. In summary, the Committee found that:

The sewage treatment plant could accommodate projected flows for the district, however, there is no surplus capacity available for expansion of the district or for changes of use within the District which would generate significant increases in sewage flows.

The Committee recommended that the most cost efficient expansion of the plant to meet the District's expected needs in the near future be targeted at 50,000 gpd. The 50,000 gpd expansion could provide 20,000 gpd of capacity for out-of-district residents located adjacent to the sewer district who might need service in the future and 30,000 gpd of capacity as a reserve for properties who may come forward with changes in usage beneficial to the community but may generate additional sewage.

The Committee concluded that the most economical expansion which would meet the District's short-term needs should be 50,000 gpd. The costs of the necessary upgrades were estimated between \$300,000 - \$500,000. However, at that time, an upgrade was being performed at the plant that provided an opportunity to accomplish the improvements at a much more favorable cost (\$250,000 - \$300,000) and with very favorable interest rates. Therefore, a significant portion of the physical components of the upgrade has been completed.

The Committee also recommended that Stearns & Wheler, LLC be authorized to initiate permitting through the New York State Department of Environmental Conservation (NYSDEC) for the expansion of an additional 50,000 gpd to a total plant capacity of 500,000 gpd. The NYSDEC, however, would not entertain the application until the plant's de-nitrification upgrades are operational, monitoring is conducted that confirms the plant's ability to meet the nitrogen limitations and engineering documentation is provided which ensures that such limitations can be met at full capacity. Stearns & Wheler, LLC is in the process of collecting sufficient data collected from the de-nitrification upgrades in Spring 2011 to prepare a formal application to the NYSDEC to expand the plant's discharge permit.

WHEREAS, the proposed project is expected to generate a significant increase in sewage flow to

the North Castle Sewer District #2 system over the flows which were expected to be generated from the previously approved office use of the site; and

WHEREAS, the projected increase in flow would be from 3,712 gpd generated from the presently approved 104,283 s.f. office building to 12,800 gpd for a 160 bed assisted living facility, an increase of 9,088 gpd; and

WHEREAS, in addition, future development of the undeveloped portion of the project site could potentially result in a 30,000 s.f. office building which could generate approximately 900 gpd of sewage flow; and

WHEREAS, this potential increase of 9,988 gpd would represent the use of approximately 1/3 of the anticipated reserve which may become available with the expansion; and

WHEREAS, the Town Board has previously indicated that it was agreeable to allocate this portion of the anticipated plant expansion to this project; and

WHEREAS, the applicant is proposing to incorporate water saving features into the facility; and

WHEREAS, such features include low water usage laundry facilities, low flow toilets, sink aerators and rain sensors on the irrigation system; and

WHEREAS, the proposed project is projected to generate an average daily water usage of 15,840 gpd which represents an increase of 11,757 gpd above the projected usage of the ± 104,000 s.f. office buildings presently approved for the project site; and

WHEREAS, these projections are based on water records of other similar facilities operated by the applicant; and

WHEREAS, the applicant has proposed the implementation of water saving features into the facility's laundry, plumbing and irrigation systems in an effort to mitigate the proposed demand; and

WHEREAS, Water District #4, which serves the project site, is supplied from six (6) wells and a one (1) million gallon gravity storage tank; and

WHEREAS, the Water District has recently rehabilitated their two (2) main supply wells within the Town Park and has been planning the installation of an additional well to support the district's supply requirements during peak demand periods during the summer months; and

WHEREAS, a duly advertised public hearing was held on said application before the Town Board on October 26, 2011, at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, the subject site is located in an area with a high potential for locating archeological artifacts as determined by maps prepared by the NYS Office of Parks, Recreation and Historic Preservation (OPRHP); and

WHEREAS, § 213-30 of the North Castle Code establishes certain general standards for all special permit uses; and

WHEREAS, in order for the Town Board to approve a special use permit, the Town Board must find that all of the conditions and standards have been met; and

WHEREAS, pursuant to § 213-30(A) of the Town Code, in order to grant a special permit, the Town Board must find that “the location and size of the use, the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located and that it complies with all special requirements for such use established in” the Town Code; and

WHEREAS, the subject property is located within the PLI Zoning District where assisted living

facilities are a permitted special permit use; and

WHEREAS, the proposed use is similar in nature to the motel located next door and compatible with the other office, manufacturing and warehouse uses in the PLI Zoning District.

WHEREAS, the proposed location of an assisted living facility is appropriate and consistent with the Town Comprehensive Plan, the nature and intensity of the operations involved with the operation of an assisted living facility are similar to other certain uses in the PLI Zoning District; and

WHEREAS, the Town Board, based upon its review of the entire record, finds that the location and size of the use, the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located and that it complies with all requirements for such use established in the Town Code; and

WHEREAS, pursuant to § 213-30(B) of the Town Code, the second criteria for the issuance of a special permit is that “the location, nature and height of buildings, walls, fences and the nature and extent of existing or proposed plantings on the site are such that the use will not hinder or discourage the appropriate development and use of the adjacent land and buildings;” and

WHEREAS, the proposed building height complies with the requirements of the zoning code and the Planning Board will require the implementation of a landscaping plan during site plan review; and

WHEREAS, the location, nature and height of buildings, walls, fences and the nature and extent of existing or proposed plantings on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings since the proposed buildings comply with the PLI district height and setback requirements and that the construction of this project will promote appropriate development and use of adjacent land and buildings; and

WHEREAS, the Town Board, based upon its review of the entire record finds that the location, nature and height of buildings, walls, fences and the nature and extent of existing or proposed plantings on the site are such that the use will not hinder or discourage the appropriate development and use of the adjacent land and buildings; and

WHEREAS, pursuant to § 213-30(C), the third requirement for the issuance of a special permit is that “operations in connection with any special permit use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristics than would be the operations of any permitted uses not requiring a special permit;” and

WHEREAS, the proposed assisted living facility will not generate any noise, fumes or vibrations; and

WHEREAS, the Town Board, based upon its review of the entire record finds that the operations in connection with any special permit use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristics than would be the operations of any permitted uses not requiring a special permit; and

WHEREAS, pursuant to § 213-30(D) of the Town Code, the Town Board, in order to grant a special permit, must find that “parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum convenience and safety;” and

WHEREAS, the proposed number of off-street parking spaces complies with the Town Code and the Planning Board will require the implementation of an appropriate landscape plan; and

WHEREAS, the Town Board, based upon its review of the entire record finds that the proposed parking areas are of adequate size for the proposed use, properly located and suitably screened from adjoining residential uses, and the entrance and exit driveways are laid out so as to achieve maximum convenience and safety; and

WHEREAS, pursuant to § 213-30(E) of the Town Code, the fourth criteria for the issuance of a special permit is compliance “where required, [with] the provisions of the Town Flood Hazard Ordinance;” and

WHEREAS, no development is proposed within the floodplain; and

WHEREAS, the Town Board, based upon its review of the entire record finds that development is not proposed within the floodplain; and

WHEREAS, pursuant to § 213-30(F), it is required that “the Town Board finds that the proposed special permit use will not have a significant adverse effect on the environment;” and

WHEREAS, on November 23, 2010, the Planning Board declared its intent to act as Lead Agency with respect to the environmental review of the proposed action pursuant to the State Environmental Quality Review Act (SEQRA) and adopted a resolution authorizing circulation of a Lead Agency Determination Notice and a copy of the application materials, including a copy of the Environmental Assessment Form, to all involved agencies for the project; and

WHEREAS, the Planning Board has found that the proposed action is an Unlisted Action pursuant to SEQRA; and

WHEREAS, the Proposed Action received a Conditioned Negative Declaration from the Planning Board on July 11, 2011; and

WHEREAS, the basis for the Planning Board’s environmental determination is set forth in detail in said Conditioned Negative Declaration; and

WHEREAS, the Town Board, based upon its review of the entire record, finds that the proposed special permit use will not have a significant adverse effect on the environment; and

WHEREAS, § 213-33.U of the North Castle Code also establishes certain additional standards for assisted living special permit uses; and

WHEREAS, pursuant to § 213-33(U)(1) of the Town Code, in order to grant a special permit, the Town Board must find that the proposed use satisfies the general purpose of the special permit, “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;” and

WHEREAS, the Town Board, based upon its review of the entire record, finds that the proposed assisted living facility is compatible with the purposes identified in Section 213-33(U)(1) of the Town Code; and

WHEREAS, pursuant to § 213-33(U)(2) of the Town Code, certain permitted accessory uses are allowed in connection with the operation of an assisted living facility; and

WHEREAS, the proposed accessory uses comply with the permitted accessory uses associated with an assisted living facility; and

WHEREAS, pursuant to § 213-33(U)(3) of the Town Code, assisted living facilities have special physical dimensional requirements; and

WHEREAS, the proposed assisted living facility complies with all of the special physical dimensional requirements; and

WHEREAS, pursuant to § 213-30(4)(a) of the Town Code, in order to grant a special permit, the Town Board must find that “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;” and

WHEREAS, the project will generate significantly fewer trips during the Weekday Peak AM Hour and Weekday Peak PM Hour and similar generation during the Saturday Peak Hour as compared to the approved 104,000 square foot office building(s); and

WHEREAS, the conservative traffic volume estimates for development of the subject property and recommended improvements for the intersection of New York State Route 22 at Maple Avenue/Business Park Drive will be appropriate to address current concerns and accommodate future site traffic; and

WHEREAS, these improvements, identified in phases, will accommodate this and other nearby developments; and

WHEREAS, the Applicant has offered as mitigation, to implement a portion of the required improvements at this time; and

WHEREAS, specifically, the Applicant has offered the removal of the Business Park Drive median, the restriping of Business Park Drive exit into two lanes as well as the relocation of any traffic detection, as necessary; and

WHEREAS, the removal of the median will allow for two lanes to be provided at the exit of Business Park Drive and for the lanes to better align with Maple Avenue; and

WHEREAS, the Town Board, based upon its review of the entire record, finds that traffic access to any assisted living community is from a public street of adequate capacity and design to safely and conveniently accommodate the expected traffic from such use and that it complies with all requirements established in the Town Code; and

WHEREAS, pursuant to § 213-30(4)(b) of the Town Code, in order to grant a special permit, the Town Board must find that “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;” and

WHEREAS, specifically, the Applicant has offered the removal of the Business Park Drive median, the restriping of Business Park Drive exit into two lanes as well as the relocation of any traffic detection, as necessary; and

WHEREAS, the Town Board, based upon its review of the entire record, finds that the assisted living facility provides 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 and that it complies with all requirements established in the Town Code; and

WHEREAS, pursuant to § 213-30(4)(c) of the Town Code, in order to grant a special permit, the Town Board must find that “assisted living communities shall be connected to public water and sewer;” and

WHEREAS, the proposed project will be connected to public water and sewer; and

WHEREAS, the Town Board, based upon its review of the entire record, finds that the assisted living facility will be connected to public water and sewer and that it complies with all requirements established in the Town Code; and

NOW, THEREFORE, BE IT RESOLVED, that the foregoing “WHEREAS” clauses and the findings contained in the Negative Declaration are incorporated herein by reference and fully adopted as part of this approval; and

BE IT FURTHER RESOLVED, that this special permit shall be deemed to authorize only the particular use of uses specified in the permit and shall expire if work is not initiated within one year from the date of issue, or if said use or uses shall cease for more than one year for any reason or if all required improvements are not completed within two years from the date of issue or if all such required improvements are not maintained and all conditions and standards complied with throughout the duration of the use; and

BE IT FURTHER RESOLVED, that the special permit be, and it hereby is, approved, subject to the conditions set forth below

Conditions:

1. The Town of North Castle Sewer District #2 shall receive approval from the New York State Department of Environmental Conservation (NYSDEC) to expand the sewer plant by an additional 50,000 gpd for a total plant capacity of 500,000 gpd, prior to the issuance of a building permit associated with the assisted living facility.
2. The Applicant shall provide water saving features into the facility, including, but not limited to, low water usage laundry facilities, low flow toilets, sink aerators and rain sensors on the irrigation system to the satisfaction of the Building Department and Sewer and Water Department.
3. The Applicant shall remove the Business Park Drive median, restripe the Business Park Drive exit into two lanes as well as relocate any traffic detection, as necessary, at a cost not to exceed \$30,000.
4. The Applicant shall be required to receive Planning Board site plan approval.
5. The Commissioners and Fire Chief of North Castle Fire District #2 shall provide a letter of support for the project to the Planning Board and Town Board prior to the issuance of Planning Board site plan approval.
6. Screening and landscaping shall be provided to the satisfaction of the Planning Board.
7. The Applicant shall provide communication from the Bureau of Historic Sites of the OPRHP regarding the potential for locating archeological artifacts. In addition, the Applicant shall provide the Planning Board with additional information regarding archeological resources on the site prior to the issuance of site plan approval.
8. The Applicant shall secure a County Stream Control Permit from the Westchester County Department of Public Works and Transportation.
9. The site plan shall provide adequate area for the storage of recyclables taking into account the recently expanded County regulations for recycling plastics # 1-7.
10. Compliance with all applicable local laws and ordinances of the Town of North Castle.

PUBLIC HEARING

October 26, 2011

At 8:55 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 a Public Hearing on October 26, 2011, at 7:30 PM, or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY 10504, for the purpose of considering the adoption of a local law to amend Chapter 92 entitled DOGS of the Code of the Town of North Castle.

The proposed local law is available in the Town Clerk's office during regular business hours.
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: October 12, 2011
Armonk, NY

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.

The proposed local law.

Town Clerk Curran explained that the proposed amendments would differentiate the penalties for no licenses from the penalties for dangerous dogs, as requested by Town Justice Elyse Lazanksy. Section 92-5 would be amended to add Penalties for No License to the Code. Section 92-11 (*to be amended to 92-10*) Penalties for Offenses would be amended to add the words "other than a violation of Section 92-5" after the word "Chapter" in the first sentence of this section.

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 Roth, that the Public Hearing be closed at 8:58 p.m.

The roll call vote was as follows:

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

Noes: None.

Councilman Kittredge moved, seconded by Councilman Roth, adoption of Local Law 9 of the year 2011 to amend Chapter 92 entitled DOGS of the Code of the Town of North Castle.

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.

Anne Curran, Town Clerk

November 8, 2011

TOWN OF NORTH CASTLE

Local Law No. 9 for the Year 2011 (Adopted October 26, 2011)

A Local Law to amend Chapter 92 entitled DOGS of the Code of the Town of North Castle.

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

1. Section 92-8 is hereby deleted in its entirety, and the sections numbered 92-9, 92-10, 92-11 and 92-12 are re-numbered accordingly.
2. Section 92-5 is hereby amended to add the following to the Code:

D. Penalties for No License.

An offense against this section shall be deemed a violation and a person convicted of such an offense shall be liable to a fine of \$50. for a first violation within a 12 month period; to a fine of \$100. for a second violation within a 12 month period; and to a fine of \$150. for a third or subsequent violation within a 12 month period.

3. Section 92-11 (*to be amended to 92-10*) Penalties for Offenses is hereby amended to add the words “..other than a violation of Section 92-5...” after the word “...Chapter...” in the first sentence of this section.

4. Effective Date: This Local Law shall be effective immediately upon filing of same with the Secretary of State of the State of New York.