

PUBLIC HEARING

July 26, 2017

At 8:09 p.m. Supervisor Schiliro 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 July 26, at 7:30 PM, or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY, 10504, to consider a local law to create a New Chapter 114, entitled "Application Processing Restrictions," of the Town of North Castle Town Code.

The proposed Local Law is available in the 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
Alison Simon, Town Clerk

Dated: July 12, 2017
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 following letters and documents were noted as received and marked Exhibit "D" for the record:

Email from Michael Cromwell, Acting Building Inspector, dated May 23, 2017

Letter from Adam Kaufman, Director of Planning, dated June 6, 2017

Short Environmental Assessment Form

The Town Clerk noted there was a Negative Declaration for consideration.

The Town Clerk noted there was a proposed Local Law for consideration.

Director of Planning Adam Kaufman explained that if the proposed local law were adopted, it would prohibit the processing and approval of any and all applications for approval and issuance of any permit or certificate of occupancy for any property owner who has outstanding fees owed to the Town or where outstanding violations of any local laws or ordinances of the Town exist on the property for which the approval is being requested.

In response to queries from the Board, Town Attorney Roland Baroni said that, if there is good cause, an applicant could come to the Town Board and request a waiver and that would be the relief valve. Mr. Baroni said the key to this law is having a form which has to be signed off by every department to confirm that there are no violations under the control of that department.

Councilman DiGiacinto said there have been instances where applicants before the Planning Board have requested to continue their applications despite having received notices of violation; and she expressed support of the proposed law.

Mr. Baroni noted that Planning Board member Michael Pollack had pushed forward with this draft legislation. Referencing the comments made by Councilman DiGiacinto, Mr. Pollack said that not only were applicants with serious violations wanting to continue with application process, they were also threatening to, and in some cases suing the Town. Noting that Mr. Baroni has said that other municipalities in the area have similar legislation, Mr. Pollack said that such a statute would have protected the Town from vexatious litigation and saved the Town that expense. He said that it is not enough that there is a volatile condition; the applicant has a period

of time to seek an appeal after the notice of violation or request a variance. The period of time has to have expired without the applicant either having appealed the notice of violation or gotten a variance before the applicant would be in violation of the law. There are relief valves built into the legislation.

In response to a question from Councilman Berra, it was confirmed that a notice of violation would always be issued to the property owner.

During discussion of the proposed local law among the Town Board, Mr. Baroni and Mr. Kaufman, it was agreed to revise the following sections of as follows:

Section 114-4. Submission of proof; processing and approval.

D. (1): revise as needed to reflect the specific time period, whether 30 or 60 days, in which a property owner can seek a variance or appeal after the issuance of a notice of violation.

Section 114-5. Waivers

Modify text as follows:

The Town Board, when it deems appropriate, may in its discretion, upon submission of a written request by a property owner, temporarily waive specific provisions of this chapter where necessary to prevent undue hardship or an inequitable result.

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded by Councilman Reiter, that the Public Hearing be closed at 8:30 p.m.

The roll call vote was as follows:

Ayes: Councilmen D'Angelo, DiGiacinto, Reiter, Berra, Supervisor Schiliro

Noes: None

Councilman D'Angelo moved, seconded by Councilman Reiter, 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 D'Angelo, DiGiacinto, Reiter, Berra, Supervisor Schiliro

Noes: None

Councilman D'Angelo moved, seconded by Councilman Reiter, the adoption of Local Law 4 of 2017, as amended, with regard to the time period during which an owner can seek a variance or appeal after the issuance of a notice of violation, to create a new Chapter 114 entitled Application Processing Restrictions in the Town Code. The Local Law follows at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen D'Angelo, DiGiacinto, Reiter, Berra, Supervisor Schiliro

Noes: None

Alison Simon, Town Clerk

Dated: August 7, 2017

Town of North Castle
Local Law No. 4 of the year 2017
Adopted July 26, 2017

A local law entitled “Application Processing Restrictive Law of the Town of North Castle

Section 1. Create a New Chapter 114, entitled “Application Processing Restrictions,” in the Town Code as follows:

§ 114-1. Purpose.

The purpose of this chapter is to prohibit the processing and approval of any and all applications for approval and issuance of any permit or certificate of occupancy or use by any board or official of the Town of North Castle for any property owner who has outstanding fees owed to the Town of North Castle or where outstanding violations (as that term is defined in § 114-4.D herein) of any local laws or ordinances of the Town of North Castle exist on the property for which the approval is being requested.

§ 114-2. Short title.

This chapter shall be known as "Application Processing Restrictive Law of the Town of North Castle."

§ 114-3. Applicability.

This chapter shall apply to the provisions of all the local laws and ordinances adopted by the Town of North Castle for any and all applications submitted on or after the effective date of this chapter.

§ 114-4. Submission of proof; processing and approval.

A. Simultaneously with the filing of an application to any board or official of the Town of North Castle, the Town shall determine, to the satisfaction of the Town department processing the Application that no fees are due to the Town of North Castle and that no outstanding violations of any local law or ordinance of the Town of North Castle exist on the property.

B. The processing and approval of any and all applications for approval and issuance of any permit or certificate of occupancy by any board or official of the Town of North Castle for any property owner who has fees outstanding to the Town of North Castle or outstanding violations of any local laws or ordinances of the Town of North Castle on the property for which the approval is being requested is hereby prohibited.

C. In the event that an application is in process before any of the boards or officials as listed above and a violation of this chapter occurs, processing of the application shall cease upon presentation of proof of the violation by the Building Inspector of the Town of North Castle. Once the applicant submits proof that the violation of this chapter has been corrected, the application process shall be allowed to continue.

D. For purposes of this chapter only, a violation of any local law or ordinance of the Town of North Castle shall be deemed to have occurred when one of the following events occurs:

(1) When a property owner has failed to seek a variance or appeal within 60 days after the issuance of a notice of violation; or

(2) Upon the issuance of a criminal summons by the Code Enforcement Officer.

§ 114-5. Waivers.

The Town Board, when it deems appropriate, may in its discretion, upon submission of a written request by a property owner, temporarily waive specific provisions of this chapter where necessary to prevent undue hardship or an inequitable result. The Building Inspector, in an emergency situation (e.g., water pipe leak, electrical malfunction, etc.) may also waive specific provisions of this chapter where necessary to prevent undue hardship or an inequitable result. The Building Inspector shall simultaneously provide notice of all waivers to the Town Board.

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. Effective Date.

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