

PUBLIC HEARING

April 8, 2015

At 8:50 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 in Town Hall, 15 Bedford Road, Armonk, NY, 10504, on April 8, 2015, 2015 at 7:30 p.m. or as soon thereafter, to consider a local law that would require fuel tanks to comply with generator location and screening requirements.

The proposed local law is available in the Town Clerk's office during regular business hours and on the Town 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: March 23, 2015
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.

Letter from Westchester County Planning Department dated February 23, 2015 stating that the action is a matter for local determination was marked Exhibit "D" for the record.

Short Environmental Assessment Form.

Negative Declaration for consideration.

Proposed Local Law.

Councilman DiGiacinto said that she had confirmed with Director of Planning Adam Kaufman that the local law being considered would apply to both commercial and residential properties in any zoning district in the Town.

In response to a query from Supervisor Schiliro whether "such equipment" in Section 1, item 2 of the law would apply to tank as well as generators and noise producing equipment, Mr. Kaufman confirmed that it would apply to all equipment listed in the first paragraph. In response to a query from the Supervisor regarding whether the approval of screening and fencing by the Building Inspector would be discretionary, Mr. Kaufman confirmed it would be, as it has been applied for generators. Mr. Kaufman said it is his understanding that if equipment is not visible to any street or neighbor that the Building Department would not require screening.

Supervisor Schiliro said he has concerns about smaller properties which would have less latitude with respect to setbacks, and that the requirements could add financial burdens. Mr. Schiliro asked if the law would apply to replacement tanks. Mr. Kaufman said a permit would be required for a new tank. Mr. Kaufman said the language in the law as is fairly flexible and gives the Building Department the ability to approve what is reasonable which does not necessarily have to be vegetation and the tank could be screened by a section of lattice or fence. Councilman DiGiacinto confirmed with Mr. Kaufman that the legislation is already in place for generators.

Christine Eggleton suggested that any screening requirements could be determined by the size of the tank.

In response to a query from Mr. Schiliro about the recourse for a property owner who did not agree with the requirements of the Building Inspector, Town Attorney Roland Baroni said the owner would appeal to the Zoning Board.

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Mr. Kaufman said the setback requirements apply to the front yard and the Town is not encouraging the placement of tanks in the front yard.

In response to a suggestion from Susan Shimer to eliminate the setback requirements if a tank is properly screened and fenced in the front yard, Mr. Kaufman said that he did not think a tank could be adequately screened in this case. Councilman D'Angelo said that a tank may not be visible, but the screening would be out of place in the front yard.

Town Attorney Baroni clarified that the proposed law would not apply to the replacement of an existing tank, which was properly permitted with a certificate of completion, with a tank of the same size and in the same location, and the replacement tank would be grandfathered.

Anthony Futia suggested that language be added regarding the grandfathering of replacement tanks.

Following discussion, the Board agreed to amend the proposed law to add the language "except for pre-existing installations".

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded by Councilman DiGiacinto, that the Public Hearing be closed at 9:00 p.m.

The roll call vote was as follows:

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

Noes: None

Councilman D'Angelo moved, seconded by Councilman Mezzancello, 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, Mezzancello, Supervisor Schiliro

Noes: None

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, the adoption of Local Law 4 of 2015 as amended, to require above ground fuel tanks to comply with generator and screening requirements.

The roll call vote was as follows:

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

Noes: None

The Local Law follows at the end of these minutes.

Anne Curran, Town Clerk

Dated: April 21, 2015

TOWN OF NORTH CASTLE

**Local Law No. 4 of the year 2015
Adopted April 8, 2015**

A local law that would require fuel tanks to comply with generator location and screening requirements

Section 1. Amend Section 213-14.Q of the Town Code as follows:

Power generators, noise-producing equipment and above ground fuel tanks. All power generators, noise-producing equipment and above ground fuel tanks shall be subject to the following requirements, except for pre-existing installations:

- (1) Such equipment shall comply with all minimum setback requirements as applicable to accessory structures.
- (2) Such equipment shall not be permitted to be located within any front yard unless it is set back at least three times the distance required for a principal building.
- (3) All such equipment shall be screened and fenced as required by the Building Inspector.
- (4) "Exercise time" for such equipment shall be limited to weekdays between the hours of 9:00 a.m. and 5:00 p.m.

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.

Dated: April 8, 2015