

PUBLIC HEARING

June 8, 2016

At 8:20 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 June 8, 2016, at 7:30 PM, or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY for the purpose of considering the Special Use Permit Application of Westfield Day School for the establishment of a new private school in an existing 4,724 square foot building. The property is located at 7 N. Greenwich Road, Armonk, NY, and known on the North Castle Tax Maps as 108.03-3-16 and located within the PBO Zoning District.

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
Alison Simon, Town Clerk

Dated: May 20, 2016
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.

Application for Special Use Permit dated March 30, 2016, including Short Environmental Assessment Form dated April 4, 2016, was marked Exhibit "D" for the record.

Letters from The Westfield Day School dated April 5, 2016 and May 6, 2016 were marked Exhibit "E" for the record.

Letter from Director of Planning, Adam Kaufman, dated April 8, 2016 was marked Exhibit "F" for the record.

Letter from Michael J. Kaufman dated April 22, 2016 was marked Exhibit "G" for the record.

Letter from the Westchester County Planning Board dated May 9, 2016 stating that this is a matter for local determination, was marked Exhibit "H" for the record.

Letter from the Director of Planning Adam Kaufman, regarding positive recommendation from the Planning Board dated June 7, 2016 was marked Exhibit "I" for the record.

The Town Clerk noted that certificates denoting mailing of Notice of hearing to adjacent property owners were in order.

The Town Clerk noted there was a proposed Resolution for approval.

Peter Schoenhotz, Owner and Director of the Westfield Day School and Pamela Heldman, Assistant Director of Administration of the Westfield Day School, appeared before the Board with regard to their Special Use Permit Application for the establishment of a new private school at the property located at 7 North Greenwich Road, Armonk.

Mr. Schoenhotz described the Westfield Day School which he said is a small therapeutic day school for learning disabled students in grades 7 through 12 providing a unique service for students who might otherwise not be able to be maintained in their prior regular public or private school. Students at Westfield have less severe problems than students with severe emotional and behavioral problems, but nevertheless are not able to maintain their functioning in their regular school.

Students can come to Westfield at any time of the school year; receive intensive academic instruction and remediation, and psychological therapy and assessment; remain for however long as they need to; and return to their prior school if that is what they would like to do. Mr. Schoenhotlz said that Westfield has been located in downtown Rye, NY since its founding in 2000, and has outgrown its current location, and therefore they are proposing to purchase the property at 7 North Greenwich Road.

Using a PowerPoint presentation, Ms. Heldman provided information about the operations at the Westfield Day School including the following:

- Westfield operates with the Consent of the Commissioner of NYS Education Department as an independent school for students with learning disabilities.
- Current enrollment is 22 students, expected to increase to about 35 to 40 students at the proposed site over the next year or two.
- Students come to Westfield struggling with various problems, are generally average to above average intelligence, and nearly all go on to higher education.
- Westfield is not a placement for students with drug addiction or a history of disruptive behavior.
- Staff includes approximately 14 part time teachers, four clinical psychologists and therapists, and two administrative assistants; there are approximately ten adults in the building at any given time.
- The school day starts at 9:00 a.m. and ends at 2:30, with a half hour for lunch which would be ordered in from local restaurants.
- Gym space for twice weekly physical education classes would be rented from St. Patrick's Church in Armonk. Students would be driven to St. Patrick's in a van.
- The exterior footprint and structure of the building would remain as is and the exterior of the building will be cleaned, repaired and painted. The property will be landscaped with a small sitting area. The interior will be minimally modified to create a more open space.

Director of Planning Adam Kaufman noted that there are four conditions in the proposed Resolution of approval for the special use permit which remain unresolved and would need to be addressed before site plan approval. In response to a query from Supervisor Schiliro, Mr. Kaufman said that the major issue being reviewed by the Planning Board is how the buses would access the site. He said four alternatives have been reviewed and the Planning Board is comfortable that one of the alternatives will work.

In response to queries from the Supervisor, Ms. Heldman and Mr. Schoenhotlz provided details about the transportation used by students. Currently there are four mini buses provided by the school district of the student's home school district with one student on each bus. Generally about 75% of the children are driven to school by their parents and dropped off between 8:45 a.m. and 9:15 a.m. Mr. Schoenhotlz noted that due to the flexibility of their program, the school year typically begins with a smaller number of students and then gradually builds up over the academic year.

In response to a query from Supervisor Schiliro, Mr. Kaufman said the traffic impact would not be significant enough to require a traffic study. He said the impact would be borne by the parents and would not interfere with the operation of the traffic signal. Mr. Schoenhotlz noted that the previous use at this location was a medical building with 19 medical offices.

Julie Suchman, Armonk resident and teacher at Westfield Day School, spoke about how the School helps students overcome obstacles. Ms. Suchman said that Westfield would be an active part of and contribute to the Armonk community.

Daniella Greco, Armonk resident and teacher at Westfield Day School, spoke about how Westfield benefits students both emotionally and academically. Ms. Greco said Westfield would be an asset to the community.

Tom D'Agostino, resident, expressed his concern about traffic on Route 22, Route 433 and Cox Avenue, and his concerns about additional traffic being generated at peak times by a new school when school district buses are on the roads. Mr. D'Agostino urged the Town Board to consider a traffic study.

In response to a query from Ann Dantzig, resident, Ms. Heldman said that parents of Westfield students pay the tuition by semester and on occasion the school district of origin pays the tuition.

Mr. Kaufman said the permitted use is essentially an office building which generates traffic in typical commuting times; the previous use of a medical office building generated traffic throughout the day with some employee. Mr. Kaufman said that even at peak demand the number of cars coming in and out of a school building would not be significant enough to change the level of service at the traffic light. He agreed it is not the best operating light and that travel at certain times of the day is difficult.

In response to queries from Councilman DiGiacinto, it was confirmed that the applicant must submit details of the proposed landscaping area to the satisfaction of the Planning Department, and details regarding the proposed off-site recreation/gym activities to the satisfaction of the Town Attorney and both requirements are conditions of the Resolution of approval. Ms. DiGiacinto said that while she appreciated the concerns about traffic, if the building were not operated as a school it would be occupied by another tenant which would generate traffic, adding that a school would not generate traffic in the evening. She said there is a need for a therapeutic school and that she supported this type of educational institution.

Councilman Reiter said he is sympathetic to the traffic issues, but he agreed with Mr. Kaufman that it does not rise to a level of a traffic study being needed. Mr. Reiter said he was in support of the school.

Councilman Berra said that while he was in favor of the idea of the school, his two primary concerns are the traffic and the safety of the students who would be attending the Westfield Day School. Mr. Berra said he did not have an issue with closing the public hearing and having more time to look into the traffic and safety issues before voting on the special use permit application. He expressed concerns about Westfield students leaving the building. Mr. Schoenhotz and Ms. Heldman confirmed that lunch would be brought into the school and said that students would not be permitted to leave the building at the 7 North Greenwich Road location. In response to queries from Mr. Berra, Mr. Schoenhotz said that the after school program typically ends at 3:30 p.m.; and Ms. Heldman said that the summer program is a six week program from 9:00 a.m. to 12 noon which has had a very small number of students and teachers.

There was some discussion regarding a condition to require that Westfield be a closed campus. John Diaconis, resident, noted that the Town of Mt. Pleasant recently took action to restrict students from leaving the Cottage School and that action is being challenged. Following additional discussion, the majority of the Town Board agreed that a condition for a closed campus was not needed.

In response to queries from Supervisor Schiliro, Mr. Schoenhotz said that Westfield operates on a standard school calendar; they would prefer to open the first week in September; and delays in the approval process would cause a hardship.

Supervisor Schiliro said that he takes comments from a Councilman and requests for more time seriously. In response to a query from the Supervisor, Councilman Berra said he would like to gather more information over the next few weeks if a decision on the application was postponed.

Supervisor Schiliro said when he considers the previous use and the alternative uses at this location he thinks that the traffic situation would be similar. Mr. Schiliro said he did not see the merit of not allowing the special use permit because of traffic. Mr. Kaufman said there is not anything physical which could be done to improve the traffic situation.

Councilman Berra expressed concerns about traffic turning left onto Route 433 and said there would be a compressed timeframe in the morning when students would be dropped off as compared to other uses at this location.

Councilman D'Angelo said that a similar traffic situation would exist with alternative uses. In response to a query from Councilman D'Angelo, Mr. Kaufman said that the Planning Board would determine the best alternative for car and buses to enter and exit the location and ensure that traffic would not back up on Route 433.

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In response to a query from Linda Fernberg, resident, Mr. Kaufman said that all vehicles could be accommodated in the parking lot while waiting to enter the road.

Supervisor Schiliro said he did not think anything could be accomplished beyond this meeting to convince him that the application should not be moved forward and that the traffic issue could be addressed because a future as of right user could have a similar or greater traffic impact.

Councilman DiGiacinto referenced a memo from Kellard Sessions Consulting dated June 3, 2016 regarding this application which did not comment on traffic.

Councilman Berra reiterated his concerns and said that although he was not in favor of the application, he would not vote against it.

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 9:21p.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 DiGiacinto, approval of the Special Use Permit Application of The Westfield Day School for the establishment of a new private school in an existing 4,724 square foot building at 7 North Greenwich Road, Armonk, subject to the four conditions in the Resolution. The Resolution 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: June 20, 2016

RESOLUTION

Action:	Special Use Permit for Private or Parochial Elementary or High Schools
Application Name:	Westfield Day School
Applicant:	Westfield Day School
Owner:	7 North Greenwich, LLC
Zone:	PBO Zoning District
Location:	7 North Greenwich Road
Date of Approval:	June 8, 2016
Expiration Date:	June 8, 2017 (1 year)

WHEREAS, the Town of North Castle Town Board received an application for the establishment of a new private school at 7 North Greenwich Road; and

WHEREAS, the proposed school would accommodate a maximum of 40 students and 15 staff members; and

WHEREAS, the property is located within the PBO Zoning District; and

WHEREAS, Section 355-23 of the Town Code permits “any nonresidential uses permitted in an R-10 District, as permitted and regulated therein;” and

WHEREAS, Section 355-21 of the Town Code permits, by Town Board Special Use Permit, “private or parochial elementary or high schools which meet the same site standards of the State Department of Education for a public school;” and

WHEREAS, the Applicant was not able to demonstrate compliance with the site standards of the State Department of Education for a public school; and

WHEREAS, based upon the state standards, the site does not comply with the minimum required lot size of 10 acres for a secondary school; and

WHEREAS, in addition, the proposed bus loading/unloading area does not appear to meet the site standards as bus loading areas “should be able to pull up to and park parallel with the curb of the loading area, without backing;” and

WHEREAS, the Town Board referred the Applicant’s project to the Zoning Board of Appeals on April 13, 2016; and

WHEREAS, the Applicant has obtained the necessary variance from the Zoning Board of Appeals with respect to meeting the site standards of the State Department of Education for a public school; and

WHEREAS, on June 6, 2016, the Planning Board reviewed and discussed the requested amendment and positively recommended that the Town Board consider the issuance of the proposed special use permit (4-0 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 April 26, 2016; and

WHEREAS, the site plan was forwarded to the Chief of Police, Fire Inspector and the Armonk Fire Chief on March 22, 2016, so that they may make any pertinent recommendations to the Planning Board including, but not limited to, the designation of no-parking zones, emergency vehicle access or any other issue deemed important to providing emergency services; and

WHEREAS, a duly advertised public hearing on said application was opened and closed on June 8, 2016, at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, Section 355-40.H of the Town Code describes the special permit requirements for “churches or other places of worship, including parish houses, church school rooms, convents or rectories; private or parochial elementary or high schools, public libraries;” 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, in order to grant a special permit, the Town Board must find that “the school may be permitted only in locations fronting on or having direct access to major or collector roads as determined by the Planning Board and shown on the Town Development Plan Map;” and

WHEREAS, the site is located on NYS Route 22 and NYS Route 433 and complies with the above requirement; and

WHEREAS, in order to grant a special permit, the Town Board must find that “building coverage, including accessory buildings, shall not exceed 20% of the lot area, nor shall the sum total of the land covered with buildings and parking areas, including driveways, exceed 50% of the lot area;” and

WHEREAS, the Applicant has obtained the necessary variance from the Zoning Board of Appeals with respect to this provision; and

WHEREAS, in order to grant a special permit, the Town Board must find that “all new buildings shall be set back from adjoining properties in residence districts, and street lines directly opposite properties in residence districts, a distance equal to at least twice the normally applicable front yard setback requirement for detached one-family dwellings in the zoning district in which they are located, but in no case less than 50 feet. Off-street parking areas shall not be permitted in any required front yard, nor in any required side or rear yard within 20 feet of any adjoining property in a residence district. Setback requirements may be modified by the Town Board in cases of conversions of existing buildings,” and

WHEREAS, since no new buildings are proposed, the existing building complies with this section of the Town Code; and

WHEREAS, in order to grant a special permit, the Town Board must find that “a landscaped buffer area, meeting at least the minimum requirements of § 355-15M of the Town Code, shall be required along all lot lines adjoining properties in residence districts;” and

WHEREAS, the Applicant will need to submit details of the proposed landscaping area for review; and

WHEREAS, in order to grant a special permit, the Town Board must find that “in addition to the special standards described above, uses shall comply with any other requirements of this chapter and any other special requirements deemed appropriate by the Town Board in accordance with the requirements of Article VII herein;” and

WHEREAS, the Town Board finds that the Applicant has complied with the above requirement; and

WHEREAS, Section 355-37 of the Town Code describes the general special permit requirements; 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, 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

WHEREAS, the property is located within the PBO Zoning District and within close proximity are commercial and residential uses; and

WHEREAS, the Town Board hereby determines that the proposed school use is compatible with surrounding uses; and

WHEREAS, in order to grant a special permit, the Town Board must find 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 adjacent land and buildings;” and

WHEREAS, the proposal does not include amending the existing building or parking area; and

WHEREAS, the Town Board hereby determines that the proposed school use complies with the above requirement; and

WHEREAS, in order to grant a special permit, the Town Board must find that “operations in connection with any special 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 Town Board finds that the proposed school will not generate any significant noise, fumes or vibrations; and

WHEREAS, in order to grant a special permit, the Town Board 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 site plan for the school provides adequate off-street parking for student drop-off and staff parking as determined by the Planning Board; and

WHEREAS, in order to grant a special permit, the Town Board must find that the provisions of the Town Flood Hazard Ordinance have been met; and

WHEREAS, no development is proposed within the floodplain; and

WHEREAS, in order to grant a special permit, the Town Board must find that the proposed special permit use will not have a significant adverse effect on the environment; and

WHEREAS, the proposed action has been classified as a Type II Action pursuant to SEQRA.

NOW THEREFORE BE IT 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, The Town Board finds that the existing parking facility location is acceptable; 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 Applicant shall submit details of the proposed landscaping area to the satisfaction of the Planning Department.
2. The Applicant shall demonstrate approval of the school use from the Westchester County Health Department with respect to utilizing the existing septic system and well.

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3. Submission of details regarding the proposed off-site recreation/gym activities to the satisfaction of the Town Attorney.
4. Compliance with all applicable local laws and ordinances of the Town of North Castle.