

PUBLIC HEARING

September 24, 2015

At 7:56 p.m. Supervisor Schiliro stated that the Public Hearing, which was adjourned on September 9, 2015, would reconvene in accordance with the Public Notice that follows:

NOTICE IS HEREBY GIVEN THAT the North Castle Town Board will hold a Public Hearing on September 9, 2015, at 7:30 PM, or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY, 10504, for the purpose of considering a local law to amend Chapter 213, Zoning, of the Code of the Town of North Castle, including: Amendments to Section 213-14G(1) relating to the height of a necessary retaining wall; Section 213-22 to include a modification to the front yard setback in the RB Roadside Business Zoning District; and to create a new Section 213.35.2 to establish standards for Site Development Plans.

The proposed local law is available in the Town Clerk's office during regular business hours and on the Town website [www.northcastleny.com](http://www.northcastleny.com). 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: August 28, 2015  
Armonk, NY

The following correspondence was received since the public hearing was opened on September 9, 2015:

Emails from Richard Panetta dated September 9, and September 10, 2015.

Letters from Anthony Patti dated September 15, and September 19, 2015.

Email from Kenneth Kaufmann dated September 17, 2015.

Letter from Giocondo and Karen DiPietro, DiPietro Construction Corp., dated September 18, 2015.

Letter from Michael Fuller Sirignano, Attorney, on behalf of Kenneth and Cynthia Kauffman, dated September 24, 2015.

Draft Text for Special Permit Uses for consideration.

Director of Planning Adam Kaufman said when the public hearing on proposed zoning amendments was opened on September 9, 2015, discussion focused on the walls and fences section (213-14G) of the proposed law. Mr. Kaufman said for many years this section of the Code was interpreted by the Town not to limit the height of retaining walls. Recently the Zoning Board of Appeals (ZBA) was asked to interpret this section as currently written; and the ZBA determined that the correct interpretation was that no retaining wall could have a height in excess of six feet. The proposed amendment being considered by the Town Board contains language to address the height of retaining walls. The Planning Board reviewed the language and recommended that the Planning Board be given approval authority for retaining walls in excess of six feet. Mr. Kaufman said at the last meeting that some Town Board members wanted to explore potentially requiring the issuance of special use permit from the Town Board for retaining walls in excess of six feet in the R-5, R-10 and R-2F Zoning Districts. Draft text was written to establish standards for the special permit use.

With regard to the draft text to establish standards for the special permit use, Councilman DiGiacinto recommended that, in addition to considering the use of the standards by the Town Board for the R-5, R-10 and R-2F Zoning Districts, the Planning Board use the same standards for retaining walls in other districts. Ms. DiGiacinto said she was not comfortable with requiring Zoning Board approval for retaining walls over six feet as the Planning Board has been able to work out acceptable solutions. In response to Councilman DiGiacinto's query with regard to the impact of these standards for applicants with approved site plans, Town Attorney Roland Baroni said applicants would need to abide by the new law, unless they had a building permit and some construction in the ground.

Town Board Minutes

September 24, 2015

Councilman Reiter agreed that the standards should apply to all zoning districts, not only those districts which are proposed for regulation via a special use permit from the Town Board.

Councilman D'Angelo said the Town Board would be relying on the Planning Board before issuing a special use permit; and he was concerned about making this a Town Board decision to grant the permit.

Councilman Mezzancello said the Town Board should not get involved in special use permits for retaining walls as this is within the expertise of the Planning Board. Mr. Mezzancello said he was in favor of the language in the standards.

Supervisor Schiliro said after further review, he did not think a special use permit for retaining walls should sit with the Town Board or that a special use permit should be issued by another Board. The Supervisor said that if the height is restricted to six feet and an applicant requests to exceed that height, a variance from the ZBA would be required. The Supervisor added that he does not favor adding more regulation than is needed. Town Attorney Baroni confirmed that if the Town Board favored this approach, the proposed language would not apply and this section of the Code would remain as currently written.

Michael Fareri expressed his view that the Planning Board has the expertise to approve the height of a wall as part of site plan review, and it not fair to applicants if the law is changed after site plans have been approved. Mr. Fareri said a special use permit from the Town Board would require another layer of approval which would lengthen the time of the process. He said retaining walls should be allowed on property lines on smaller lots.

Anthony Patti, North White Plains, read his letters to the Town Board dated September 15, 2015 and September 19, 2015. Mr. Patti reviewed the legislative history of the walls and fences section of the Code which he obtained through a FOIL request.

Supervisor Schiliro said the hearing is not about Mr. Patti's project and his dispute with his neighbors, nor to discuss the merits of Mr. Patti's petition. Mr. Schiliro said the Town Board is tasked with reviewing this section of the Code and making a decision if the Board thinks it needs to be changed.

Michael Sirignano, Attorney for Kenneth and Cynthia Kauffman, said the ZBA did not interpret the Code to prohibit any wall over six feet, but to prohibit a wall if it would be in the setback. Mr. Sirignano said he was in support of the Supervisor's recommendation not to require a special use permit and suggested that the standards developed for retaining walls be given to the ZBA. Mr. Baroni said that this interpretation was not reported to him; and he was told the interpretation applied to any wall. He recommended that the hearing be adjourned and the interpretation of the ZBA be determined.

Jack (Giocondo) DiPietro said retaining walls are needed for the purpose of holding up driveways and building houses, and urged the Board not to consider additional regulations.

John Junker, North White Plains, expressed his objection to the Patti project.

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded by Councilman DiGiacinto, that the Public Hearing be adjourned at 9:04 p.m.

The roll call vote was as follows:

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

Noes: None

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Anne Curran, Town Clerk

Dated: October 5, 2015