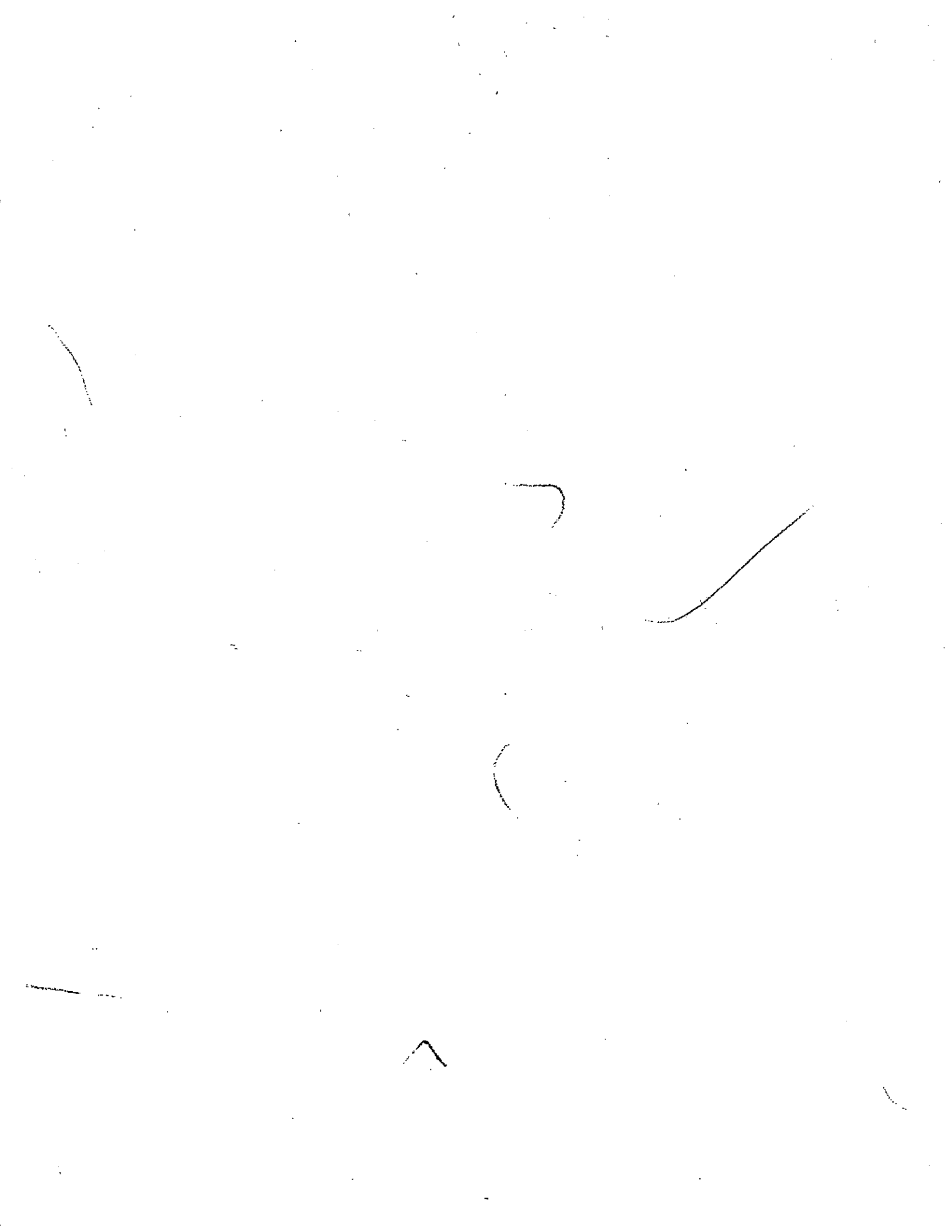


ZONING ORDINANCE

Town of North Castle, New York

November 1, 1970



TOWN OF NORTH CASTLE

SUPERVISOR

JOHN A. LOMBARDI

COUNCILMEN

RICHARD N. LANDER
KATHLEEN M. BARONI

RALPH H. MONE
NORMAN M. STONE

TOWN CLERK

JOS. T. MILLER

TOWN ATTORNEY

JOHN G. MOORE

BUILDING INSPECTOR
RAY JOHNSON

TOWN ENGINEER
EDWARD F. AHNEMAN, JR.

BOARD OF APPEALS

JOHN TAROLI, *Chairman*
WILLIAM WATSON
JAMES E. McDONALD
[REDACTED]
ROBERT E. SCHMIDT

PLANNING BOARD

PETER C. VAN DE WATER, *Chairman*
WILLIAM KAUFMAN
KOORE RODAL
ERNEST G. WEISS
JOHN P. ANNICELLI

EDITH K. EHRLMAN

TABLE OF CONTENTS

	Page		Page
ARTICLE I. — PURPOSES	3	ARTICLE IV. — REGULATIONS (Cont'd.)	
Section 100 — Purposes	3	464 — Off-Street Parking Require-	
ARTICLE II. — DEFINITIONS	3	ments	25
Section 200 — Purpose of Definitions	3	465 — Layout and Location of	
210 — General Construction of Language	3	Off-Street Parking Facili-	
220 — Definitions	4	ties	26
ARTICLE III — ESTABLISHMENT OF DISTRICTS	10	466 — Improvement of Parking	
Section 300 — District Classification	10	Facilities	26
310 — Zoning Map Establishment	10	467 — Operation and Maintenance	
320 — Interpretation of District Bound-		of Off-Street Parking Facili-	
aries	10	ties	27
330 — Order of Restrictiveness	11	468 — Off-Street Loading Require-	
340 — Lots in Two or More Districts	11	ments	27
ARTICLE IV. — REGULATIONS	11	470 — Minimum Dwelling Unit Size	27
Section 400 — Application of Regulations	11	471 — Livable Floor Area	27
410 — General Regulations	11	472 — Minimum Livable First	
411 — Buildings, Uses and Lots	11	Floor Area	28
412 — Yards, Yard Improvements,		473 — Maximum additional allow-	
Bldg. Projections, Setbacks	13	ance to first floor area	28
420 — Schedules of Regulations for Dis-		474 — Compliance with Paragraph	
tricts	14	473.2 hereof	29
421 — Residence Dist. Regulations		475 — Non-conformance with the	
Inside Pocket Back Cover		applicable min. sq.	
422 — Business and Industrial Dist-		ft.	29
rict Regulations .. Inside Pocket		476 — Livable Area on Second	
Back Cover		Floor	29
430 — Permitted Special Uses	15	480 — Non-Conforming Use of Buildings	29
431 — General Provisions	15	481 — Continuing Existing Uses	29
432 — Application for a Special		482 — Non-Conforming Use of	
Permit	15	Land	29
433 — Required Plan	15	483 — Non-Conforming Use of	
434 — Conditions and Safeguards	15	Buildings	29
435 — Expiration of Special Per-		484 — Non-Conformity, Other	
mits	16	Than Use	30
436 — Existing Violations	16	485 — Restoration of Damage	
441 — Office Business District	16	Buildings	30
442 — Roadside Business (RB)		486 — Non-Conforming Signs	30
Dist.	17	487 — Compliance with Limita-	
443 — Planned Business District	18	tions on External Effects	
444 — Planned Light Industrial		of Uses	30
Dist.	18	ARTICLE V. — ADMINISTRATION AND ENFORCEMENT	31
445 — Farm Use	18	Section 500 — Enforcement	31
446 — Sale, Distribution and Stor-		501 — General	31
age Liquified Petroleum		502 — Building Inspector-Right to enter	31
Gas	18	503 — Records and Reports	31
447 — Hotel Use	19	510 — Building Permits	31
448 — Scientific Research Center		520 — Certificate of Occupancy	33
Use	21	530 — Violations and Penalties	34
449 — Nursing Home or Conval-		540 — Board of Appeals	34
escent Home Use	22	541 — Organization	34
450 — Approval of Site Development Plan	23	542 — Powers and Duties	34
451 — Plan Required	23	543 — Appeals How Taken to	
452 — Application for Site Plan		Board of Appeals	35
Approval	23	544 — Notice of Hearing	36
453 — Referral of Application to		545 — Referral to Planning Board	36
Planning Board	23	546 — Action by Board of Appeals	36
454 — Standards for Site Plan		547 — Court Review How Taken	
Approval	23	on Board of Appeals	
455 — Planning Board Initiative	24	Actions	36
460 — Off-Street Parking, Loading and		550 — Fees	36
Vehicular Access	24	ARTICLE VI. — AMENDMENTS	37
461 — General	24	Section 600 — Amendments	37
462 — Required Space To Be		601 — Enabling Act	37
Shown on Plan	24	602 — Petition	37
463 — Existing Structures and		603 — Planning Board	37
Uses	24	ARTICLE VII. — MISCELLANEOUS	37
		Section 700 — Interpretation	37
		701 — Severability	38
		702 — Short Title	38

ZONING ORDINANCE
OF THE
TOWN OF NORTH CASTLE

An ordinance applying to the Town of North Castle, regulating and restricting the height, number of stories and size of buildings and other structures, the percentage of lot area that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land, and for the purposes thereof, dividing the town into districts or zones, providing for the enforcement of the ordinance and for fines and penalties for the violation thereof, -- and further providing for a Board of Appeals with power, among others, to determine and vary the application of its provisions in harmony with general purposes, scope and intent of the ordinance.

The Town Board of the Town of North Castle, County of Westchester and State of New York, in accordance with the provisions of Article 16 of the Town Law as enacted by Chapter 634 of the Laws of 1932, and as amended having heretofore duly appointed a zoning commission, and said commission having heretofore made a preliminary report and held public hearings thereon, and it having submitted to this Town Board its final report in respect thereto, as required by law, and the Town Board thereafter having duly noticed and held a public hearing on the proposed ordinance and otherwise having compiled in all respects with the provisions of the aforesaid law, -- now, therefore, for the purpose set-forth therein and in accordance therewith, the Town Board of the Town of North Castle does hereby enact and ordain, as follows:

ARTICLE I – PURPOSES

Section 100. Purposes

This plan is adopted for the protection and promotion of the public health, safety, morals and general welfare of the community, as follows:

101. To guide the future growth and development of the Town in accordance with a comprehensive plan of land use and population density that represents the most beneficial and convenient relationships among the residential, non-residential and public areas within the Town, considering the suitability of each area for such uses, as indicated by existing conditions; trends in population and mode of living, and having regard for the use of land, building development and economic activity, considering such conditions and trends both within the Town and with respect to the relation of the Town to areas outside thereof.
102. To provide adequate light, air, and privacy; to promote safety from fire, flood, and other danger, and to prevent over-crowding of the land and undue congestion of the population.
103. To protect the character and the social and economic stability of all parts of the Town, and to encourage the orderly and beneficial development of all parts of the Town.
104. To protect and conserve the value of land throughout the Town and value of buildings appropriate to the various districts established by this Ordinance.
105. To bring about the gradual conformity of the uses of land and buildings through the comprehensive zoning plan set forth in this Ordinance, and to minimize the conflicts among the uses of land and buildings.
106. To promote the most beneficial relation between the use of land and buildings and the circulation of traffic throughout the Town, having particular regard to the avoidance of congestion in the streets and the provision of safe and convenient vehicular and pedestrian traffic movements appropriate to the various uses of land and buildings throughout the Town.
107. To provide a guide for public policy and action in the efficient provision of public facilities and services, and for private enterprise in building development, investment, and other economic activity relating to uses of land and buildings throughout the Town.
108. To limit development to an amount equal to the availability and capacity of public facilities and services.
109. To prevent the pollution of streams and ponds; to safeguard the water table, and to encourage the wise use and sound management of the natural resources throughout the Town in order to preserve the integrity, stability and beauty of the community and the value of the land.

ARTICLE II. – DEFINITIONS

Section 200. Purposes of Definitions.

For the purpose of this Ordinance, certain words and terms used herein are defined as follows:

210. General Construction of Language

All words used in the present tense include the future tense; all words in the singular number include the plural number, and vice versa; the word "person" includes corporations and all other legal entities; the words "lot," "plot" and "tract of land" shall one include the other; the word "premises" shall include land and buildings thereon; the word "building" shall

include "structure" and vice versa; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied," unless the natural construction of the wording indicates otherwise. The word "shall" is mandatory. Unless otherwise specified, all distances shall be measured horizontally. The word "Town" means the Town of North Castle; the term "Town Board" means the Town Board of said Town; the term "Board of Appeals" means the Zoning Board of Appeals of said Town; the term "Planning Board" means the Town Planning Board of said Town; the term "Town Plan" means the Plan adopted by the Town Planning Board pursuant to Section 272-a of the Town Law. The words "this Ordinance" shall mean the zoning ordinance as originally adopted on May 1, 1941 and as amended from time to time.

220. Definitions

Alter: To change or rearrange the structural parts or the exit facilities of a structure, or to move a building from one location or position to another.

Area, Building: Total of areas taken on a horizontal plane at the main grade level of principal buildings and all accessory buildings, exclusive of uncovered porches, parapets, steps and terraces.

Basement: That portion of a building wholly or partly underground, which extends no more than four feet above the level from which the height of the building is measured. The word "basement" includes the word "cellar."

Boarding House: A dwelling occupied by one family with no more than two boarders, roomers or lodgers in the same household, who are lodged with or without meals, and in which there are provided such services as are incidental to its use as a temporary residence for part of the occupants. The term "boarding house" shall include "rooming house" for the purpose of this Ordinance.

Building: Any structure having a roof supported by columns or by walls, and intended for the shelter, housing or enclosure of persons, animals or chattel.

Building Accessory: A subordinate building, subordinate to the main building on the lot and used for purposes customarily incidental to that of said main building.

Building Length: The least horizontal distance between the furthestmost walls of a building, including any carport and porches.

Building, Main: A building in which is conducted the main or principal use of the lot on which said building is situated.

Building, Temporary: A "temporary building" or "temporary structure" is one erected, constructed, or placed upon the premises, to exist there for a brief or temporary duration of time, not exceeding nine months. All other buildings or structures shall be deemed and considered as permanent for the purposes of this ordinance.

Club, Membership: An organization catering exclusively to members and their guests, or land and buildings used for recreational, social or athletic purposes, which organization, land or buildings are not conducted primarily for gain, and provided no merchandising or commercial activities are conducted except as required generally for the membership of such club.

Convalescent Home, or Nursing Home: Any establishment where three or more persons suffering

from or afflicted with, or convalescing from, any infirmity, disease or ailment, are habitually kept or boarded or housed for remuneration, other than municipal or incorporated hospitals, or establishments for the care of the mentally ill.

Coverage: That percentage of the lot area covered by the combined area of all buildings or structures on the lot.

Dwelling: A detached building or immobile house trailer, designed or used exclusively as living quarters for one or more families; the term shall not be deemed to include automobile court, motel, boarding or rooming house, mobile house trailer, tourist home, or tent.

Dwelling, 1 Family: A dwelling containing one dwelling unit only.

Dwelling, 2 Family: A dwelling containing two dwelling units only.

Dwelling, Multi-Family: A dwelling containing three or more dwelling units.

Dwelling Unit: A building, or portion thereof, providing complete housekeeping facilities for one family.

Educational Institution, Private: Any non-public school or other organization or institution conducting a regularly scheduled curriculum of study similar to that of the public schools and operated under the Education Law of New York State.

Family: One or more persons occupying a dwelling unit and living as a single housekeeping unit in a domestic relationship based upon birth, marriage or other domestic bond.

Farm Use: A farm use shall be the use of a parcel of land as an accessory use, for the purpose of producing agricultural, horticultural, floricultural, vegetable and fruit products of the soil, livestock, poultry, eggs, dairy products, nuts and honey, but shall not include the breeding, raising or maintaining of fur-bearing animals, pigs, goats, more than 100 head of poultry, animal kennels, riding or livery stables. A garden, accessory to a residential use, shall not be deemed a farm use. A farm use shall not include the processing of farm products or operation of a roadside stand.

Filed Map: Any map, survey or plat filed in the County Clerk's Office of Westchester County.

Frontage: The extent of a building or a lot along a street as defined herein.

Front Wall: The front wall of a building is the wall nearest to and facing the street on which the lot fronts.

Funeral Home: The establishment of a funeral director or undertaker, which may or may not include facilities for the conduct of funeral services.

Garage, Private: An accessory building or part of a main building used only for the permitted storage of motor vehicles.

Garage, Public: A building or part thereof used for the storage, care and repair of motor vehicles for remuneration, with or without the sale of motor fuels dispensed from pumps located within the garage building, and any sale of motor vehicle accessories or where motor vehicles are kept for hire or sale.

Gasoline Filling Station: Any area of land, including

structures thereon, or any building or part thereof that is used for the sale of motor fuels or motor vehicle accessories, and which may include facilities for lubricating, washing, or otherwise servicing motor vehicles, but not including body work, major repair or painting thereof by any means.

Grade, Established Street: The permanently established elevation of the center line of a street in front of the midpoint of the lot.

Grade, Finished: The finished grade of any point along the wall of a building shall be the elevation of the completed surfaces of lawns, walks, and roads adjoining the wall at that point.

Greenhouse: A "greenhouse" shall mean any building or structure constructed mainly of glass and used as a conservatory for the growing and protection of flowers and plants, and for the propagation and culture thereof.

Height of Building: The vertical distance to the level of the highest point of the roof, if the roof is flat, or to the mean level between the eaves and the highest point of the roof, if the roof is of any other type, measured as follows, unless otherwise provided in a particular district:

1. If the building adjoins the front property line or is not more than ten feet distant therefrom: measured at the center of the front wall of the building from the established street grade; or, if no such grade has been officially established: measured from the average level of the finished grade across the front of the building.
2. If the building is more than ten feet from the front property line: measured from the average level of the finished grade adjacent to the exterior walls of the building. Where the finished grade surface is made by filling, the level of such finished grade for the purpose of this definition, shall be deemed to be not more than three feet above the established street grade.
3. When a lot fronts two or more streets of different levels, the lower street, or the average elevation of the lot with regard to the abutting streets, may be taken as the base for measuring the height of the building.

Home Occupation: Any use customarily conducted entirely within a dwelling and carried on only by the residents thereof, using only customary home appliances, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. The conducting of a clinic, hospital, barber shop, beauty parlor, photographer or artist salon, real estate and/or insurance office, tea room, tourist home, animal hospital, or any similar use, shall not be deemed to be a home occupation. Any business enterprise or activity which shall require a license or permit from the Town or from any bureau or department of the County or State, shall be deemed not to be a home occupation.

Hospital: Unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, and any other place for the diagnosis, treatment, or other care of human ailments, but not including those for epileptic, drug, liquor, insane or feeble-minded patients. The term shall not include a

rest home, medical clinic, nursing or convalescent home.

Hotel (Motel): A building, or portion thereof, containing rooms occupied primarily by transient guests who are lodged with or without meals, which rooms, have primary access from public halls, and in which there are certain public rooms and halls for the use of all guests, and in which are provided such services as are incidental to the use thereof as a temporary residence.

House Trailer: Any portable or mobile vehicle used or intended to be used for living purposes.

House Trailer, Mobile: Any house trailer with its wheels, rollers or skids in place or obviously designed to be capable of being readily moved by any other means from its location.

Junk Yard: The use of more than 200 square feet of the area of any lot, whether inside or outside a building, or the use of any portion of that half of any lot that adjoins any street, for the storage, keeping, or abandonment of junk or scrap materials, or the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof, or any collection of two or more old or second-hand motor vehicles no longer intended or in condition for legal use on the public highways.

Kennel: A "kennel" shall mean the keeping of five (5) or more dogs over the ages of five (5) months.

Loading Space: Any off-street space available for the loading or unloading of goods, not less than fifteen feet wide, forty feet long, and fifteen feet high (if covered in any manner), and having direct usable access to a street, except that where one such loading space has been provided, any additional loading space lying alongside, contiguous to, and not separated from such first loading space, need not be wider than twelve feet.

Lot: A parcel of land, not divided by streets, devoted to or to be devoted to a particular use, or occupied or to be occupied by a building or buildings, together with such open spaces as are required under the provisions of this Ordinance, and having its principal frontage on a street as defined in this Ordinance.

Lot, Corner: A lot located at the junction of and fronting on two or more intersecting streets.

Lot Area: The total horizontal area included within lot boundaries.

Lot Depth: The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

Lot Width: The horizontal distance between the side lot lines, measured at right angles to the lot depth.

Lot Lines: The property lines bounding a lot as defined herein.

Lot Line, Front: In the case of a lot abutting upon only one street, the line separating the lot from the street; in the case of any other lot, the owner shall, for the purpose of this Ordinance, have the privilege of electing any street lot line as the front lot line, except that where the majority of lots in any block are developed, the owner shall select the same front lot line as used by such other lots. In subdivisions approved by the Planning Board, said Board may designate front lot line on any lot having frontage on more than one street.

Lot Line, Rear: The lot line which is generally

opposite the front lot line; if the rear lot line is less than ten (10) feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line, not less than (10) feet long, lying wholly within the lot and farthest from the front lot line.

Lot Line, Side: The property line or lines extending from the front lot line to the rear lot line.

Non-Conforming Use: A use of a building or of land that does not conform to the regulations as to use in the district in which it is situated, which use was lawful under this Ordinance at the time the use was established.

Nursery: Any place used as a garden for the open cultivation and growing of trees, shrubs and other plants, including the replanting of said plants grown at places other than the nursery.

Nursery, Day: A place, building or structure, designed to provide care or instruction for two or more children under six years of age.

Nursery School: Same as "Nursery, Day."

Nursing Home: See "Convalescent Home."

Official Map: A map adopted by the Town Board, showing streets, highways and parks already laid out, adopted and established by law. Drainage systems may also be shown on this map.

Parking Area: An off-street area containing one or more parking spaces, with passageways and driveways appurtenant thereto. In general, there shall be an average of about three hundred (300) square feet of parking area per parking space.

Parking Space: An off-street space available for the parking of one motor vehicle on a transient basis and having a width of not less than (9) feet, and an area of not less than one-hundred eighty (180) square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct usable access to a street but not requiring the backing of any vehicle across a sidewalk or into the street right-of-way.

Porch: A roofed-over structure, projecting out from the wall or walls of a main structure and often open to the weather.

Recreation Center: A fully-enclosed building used for athletic sports and other recreational activities.

Rooming House: See definition of "Boarding House."

Sign: Any device for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public. For the purposes of this Ordinance, signs shall be considered to be structures and shall be subject to all regulations applicable to structures, except that signs may be located within required yards provided they are not nearer than 5 feet to any property line, and further provided that anymore restrictive standards specified elsewhere in this Ordinance shall govern where they are applicable.

Sign Size: Where a sign consists in either or both sides of a single board or face, the area which results by multiplying the outside dimensions of a sign, not including the vertical, horizontal or diagonal supports which may affix the sign to the ground or to a structure or building, unless such supports are evidently designed to be part of the sign as defined

herein. Where a sign consists of several individual faces, the area shall be the total of the area of all such faces, computed as above. Where the sign consists of individual letters or symbols attached to or painted on a building, the area shall be considered to be that of the smallest rectangle which encompasses all of the letters or symbols.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the top of the ceiling beams next above it. A basement shall be counted as a story if the ceiling is more than four feet above the level from which the height of the building is measured, or if it is used for dwelling purposes by other than a janitor or watchman. Each basement in excess of one shall be counted as a story.

Story, Half: A story with at least two opposite exterior sides meeting a sloping roof not more than two feet above the floor of such story.

Street: An existing State, County or Town Highway, or a way shown upon a subdivision plat approved by the Town Planning Board, as provided by law, or on a plat duly filed and recorded in the Office of the County Clerk prior to the appointment of the Town Planning Board and the grant to such Board of the power to approve subdivision plats.

Street Line: The dividing line between a street and a lot.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Terrace: An uncovered flat platform of earth with or without a surface material or retaining walls. A terrace with a roof or awning shall be considered a porch.

Town Development Plan: A comprehensive plan for development of the Town, prepared by the Planning Board pursuant to Section 272-a of the Town Law, which indicates the general locations recommended for various public works and reservations, and for the general physical development of the Town, and includes any part of such plan separately adopted and any amendment to such plan, or parts thereof.

Use: The specific purpose for which land, water, or a building or structure is designed, arranged, intended, or for which it is or may be occupied or maintained.

Use, Accessory: A use which is customarily incidental and subordinate to the principal use on a lot, and located on the same lot therewith.

Utility, Public: Any person, firm, corporation or municipal agency, duly authorized to furnish to the public, under public regulation, electricity, gas, water, steam, telephone or telegraph.

Yard: An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as may be specifically authorized in this Ordinance. In measuring a yard, as hereinafter provided, the line of a building shall be deemed to mean a line parallel to the nearest lot line, drawn from a point of a building or the point of a group of buildings nearest to such lot line, and the measurement shall be taken at right angles from the line of the building as defined herein to the nearest lot line.

Yard, Front: A yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the building.

Yard, Rear: A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

Yard, Side: A yard between the side line of the lot and the nearest line of the building, and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front and rear lot line, as the case may be.

ARTICLE III – ESTABLISHMENT OF DISTRICTS

Section 300. District Classification

The Town of North Castle is hereby divided into the following classes of districts.

R-4A One-family Residence District (4 acres)

R-2A One-family Residence District (2 acres)

R-1.5A One-family Residence District (1½ acres)

R-1A One-family Residence District (1 acre)

R-30 One-family Residence District (¾ acre)

R-20 One-family Residence District (½ acre)

R-10 One-family Residence District (10,000 square feet)

R-5 One-family Residence District (5,000 square feet)

R-2F Two-family Residence District (5,000 square feet)

OB Office Business District

PB Planned Business District

NB Nursery Business

CB Central Business District

RB Roadside Business District

GB General Business District

PLI Planned Light Industry District

IND AA Industrial District

IND A Industrial District

HB Hotel Business

RELIP Research, electronic and light industrial park

PBO Professional Business Office

Section 310. Zoning Map Establishment

Said districts are bounded and defined as shown on a map entitled "Zoning Map of the Town of North Castle, N.Y.," adopted May 1, 1941 and revised November 8, 1951 and as amended from time to time and certified by the Town Clerk, which map is located at the end of this text and which, with all explanatory matter thereon, is hereby made a part of this Ordinance.

Section 320. Interpretation of District Boundaries

Where uncertainty exists as to the locations of any boundaries shown on the zoning map, the following rules shall apply:

320.01 District boundary lines are intended to follow streets, rights-of-way, water courses or lot lines, or be parallel or perpendicular thereto, unless such district boundary lines are fixed by dimensions, as shown on the zoning map.

320.02 Where district boundaries are indicated as following approximately streets, rights-of-way, or water courses, the center lines thereof shall be construed to be such boundaries.

320.03 Where district boundaries are so indicated that they approximately follow the edge of lakes, ponds, reservoirs or other bodies of water, the mean high water lines thereof shall be construed to be the district boundaries.

320.04 Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundaries.

320.05 If the district classification of any land is in

question, it shall be deemed to be in the most restrictive adjoining district.

Section 330. Order of Restrictiveness
Where districts are referred to as "more restrictive" or "less restrictive," the designation shall refer to the order in which the districts are named in Section 300, the first named being the most restrictive.

Section 340. Lots in Two or More Districts
Where a lot in one ownership of record is divided by one or more district boundary lines, regulation for the less restricted portion or portions of such lot shall not extend into the more restricted portion or portions.

ARTICLE IV – REGULATIONS

Section 400. Application of Regulations
No building shall be erected, constructed, moved, altered, rebuilt or enlarged, nor shall any land, water or building be used, designed or arranged to be used for any purpose except in conformity with this Ordinance. No building, structure, hotel, or premises shall be used, and no building or other structure shall be erected which is intended, arranged, or designed to be used for any trade, industry, business or purpose of any kind, that is noxious or offensive by reason of the emission of odor dust, refuse matter, garbage, smoke, fumes, gas, noise or vibration, or that is dangerous to the comfort, peace, enjoyment, health or safety of the community, or tending to its disturbance, inconvenience, discomfort or annoyance.

In interpreting and applying this Ordinance, the requirements contained herein are declared to be the minimum requirements for the protection and promotion of the public health, safety, morals, comfort, convenience and general welfare. This Ordinance shall not be deemed to affect in any manner whatsoever any easements, covenants, or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or land, or upon the erection, construction, establishment, moving, alteration or enlargement of buildings than are imposed by other ordinances, rules, regulations, licenses, certificates or other authorizations, or by easements, or covenants, or agreements, the provisions of this Ordinance shall prevail.

Section 410. General Regulations
The provisions of this Ordinance shall be subject to such exceptions, additions or modifications as herein provided by the following general supplementary regulations.

411. Buildings, Uses and Lots

411.01 Lot for Every Building – Every building hereafter erected shall be located on a lot as herein defined and, except as herein provided, there shall be not more than one main building and its accessory buildings on one lot, except for non-residential buildings in districts where such uses are permitted.

411.02 Yard and Open Space for Every Building – No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be included as any part of the yard or open space for any other building; no yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot.

411.03 Subdivision of a Lot – Where a lot is formed hereafter from the part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of

this Ordinance with respect to the existing building and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection of a building on the new lot thus created unless it complies with all the provisions of this Ordinance.

- 411.04 Irregularly Shaped Lots — Where a question exists as to the proper application of any of the requirements of this Ordinance to a particular lot or parcel because of the peculiar or irregular shape of the lot or parcel, the Board of Appeals shall determine how the requirements of the Ordinance shall be applied.
- 411.05 Lots Under Water or Subject to Flooding — No more than 25 percent of the minimum area requirements of a lot may be fulfilled by land which is under water or subject to periodic flooding. Land which is under water that is open to use by persons other than the owner of the lot, shall be excluded entirely from the computation of the minimum area of that lot. For the purposes of this section, land in the bed of a stream not exceeding five feet in width at mean water level, and land in any pond not exceeding 150 square feet in area shall not be considered as under water.
- 411.06 Required Street Frontage — No building permit shall be issued for any structure unless the lot upon which that structure is to be built has frontage on a street which has been suitably improved to Town Road standards, or a bond posted therefor, and unless the actual access to such structure is over such frontage, all in accordance with the provisions of Section 280a of the Town Law.
- 411.07 New Buildings on Lots Less Than the Minimum Area — A permit may be issued for the erection of a building on a lot or parcel for which a valid conveyance has been recorded or contract of sale has been signed and the conveyance recorded prior to the adoption of this Ordinance notwithstanding that the area of such lot or parcel is less than that required for the district in which such parcel or lot lies, providing that the lot met the zoning requirements at time the deed to lot was recorded, and further providing that all yard setbacks and other requirements which are in effect at the time of the obtaining of the building permit are complied with insofar as such is feasible, and providing the owner of such a lot or parcel does not own other lots or parcels contiguous thereto. If this be the case, such other lots or parcels, or so much thereof as might be necessary, shall be combined with the original lot or parcel to make a single conforming lot or parcel, whereupon a permit may be issued, but only for such combined lots or parcels even though their total be less in area than required by this Ordinance for the district in which they lie. In the case of contiguous lots or parcels acquired by the Town through foreclosure proceedings prior or subsequent to the adoption of this Ordinance, these lots or parcels shall be sold in such manner that they may comply with the requirements of this paragraph.
- 411.08 Parts of Lot Not Counted Toward Area Requirements — For any lot created by subdivision subsequent to the effective date of this Ordinance, no part of such lot less in width than one-half of the minimum requirement for the district in which it is located shall be counted as part of the minimum required lot area.
- 411.09 Lot Width Required — Within any Residence District, no part of any dwelling or other

structure housing a main use, and within any Business District, no part of any residence structure, shall be erected on any part of the lot which has a width of less than the minimum requirement for the district in which it is located.

412. Yards, Yard Improvements, Building Projections, Setbacks

412.01 Terraces – A paved terrace shall not be considered in the determination of lot coverage or yard requirements, provided, however, that such terrace is without roof, awnings, screens, walls, parapets, or other forms of enclosure. Such terrace, however, may have a guard railing, wall or fence but such terrace shall not project into any yard to a point closer than five feet from any lot line.

412.02 Porches – No porch may project into any required yard. Any two-story or any enclosed porch, or one having a roof and capable of being enclosed, shall be considered a part of the building in determining the yard requirements or amount of lot coverage.

412.03 Projecting Horizontal Architectural Features – Architectural features, such as window sills, belt courses, chimneys, cornices, eaves or bay windows, shall not project more than three feet into any required yard, but not nearer than eight feet from the lot line in any case. The sum of any bay window projections on any wall shall not exceed one-fourth the length of any said wall.

412.04 Fire Escapes – Open fire escapes may extend into any required yard.

412.05 Projecting Features Above the Roof Level – The height limitations of this Ordinance shall not apply to flagpoles, church spires, belfries, cupolas domes not used for human occupancy. They shall not apply to chimneys, ventilators, skylights, water tanks, bulkheads, or similar features, and necessary mechanical appurtenances usually carried above the roof level; such features, however, shall be erected only to a height necessary to accomplish the purpose they are intended to serve, but shall not extend more than 15 feet above the roof without the approval of the Board of Appeals; the total area covered by such features shall not exceed 15% of the area of the roof on which they are located.

412.06 Parapet Walls – The provisions of this Ordinance shall not apply to prevent the erection above the building height limit of a parapet wall or cornice for ornament and without windows, extending above such height limit less than five feet.

412.07 Walls and Fences – The yard requirements of this Ordinance shall not be deemed to prohibit any necessary retaining wall, nor to prohibit any fence or wall, provided that such fence or wall does not exceed six (6) feet in height, unless that part above such height is not less than three-fourths (¾) open construction. However, no barbed wire fence or similar fence shall be erected along the boundary line of any street, highway, park, playground or other publicly used property, nor shall any such fence be erected or maintained along any other boundary line, except in accordance with the provisions of the Town Law or other laws applicable thereto.

412.08 Visibility at Intersections – On a corner lot in any residence district, no fence, wall, hedge, or other structure or planting, more than three feet in height, shall be erected, placed or maintained within the triangular area formed by the intersecting street lines

and a straight line joining said street lines at points which are thirty (30) feet distant from the point of intersection, measured along said street lines. The height of three feet shall be measured above the road surface at the nearest edge of road travelled-way. This paragraph shall not apply to existing trees, provided that no branches are closer than six (6) feet to the ground.

412.09 Corner Lots — On a corner lot in any residence district, except an R-5 District, there shall be provided a side yard on the side street equal in depth to the required front yard on said lot.

412.10 Exception for Existing Alignment of Buildings — If on one side of a street within 250 feet of any lot there is pronounced uniformity of alignment of the fronts of existing buildings and of the depths of front yards greater or less than the depth specified in the Schedule of Regulations, a front yard shall be required in connection with any new building which shall conform as nearly as practicable with those existing on the adjacent lots, except that no such building shall be required to set back from the street a distance greater than 75 feet.

412.11 Awnings — No awning or similar weather shielding feature projecting beyond the property line of any lot into the sidewalk portion of a street shall be erected or maintained on any building, unless such awning or feature shall be firmly attached to the building and is at all points at least eight feet above the sidewalk area.

412.12 Swimming Pools — All swimming pools shall be considered structures and shall set back from lot lines at least the minimum distance required for other buildings and structures. Also, such pools shall conform to the requirements of the Town Swimming Pool Ordinance.

412.13 Buffer Areas — Wherever a buffer strip is required by this Ordinance, it shall meet the following standards:

- a. Be at least 10 feet in width along any lot line abutting or directly across the street from a lot in a Residence District.
- b. Be of evergreen planting of such type, height and spacing as, in the judgment of the Planning Board, will screen the activities on the lot from view of a person standing at street level on the adjoining residential lot. The plan and specifications for such planting shall be filed with the approved plan for the use of the lot.
- c. A wall or fence, of location, height and design approved by the Planning Board, may be substituted for the required planting.

412.14 Exterior Lighting — All exterior lighting in business and industrial districts, including the lighting of signs, shall be of such type and location and shall have such shading as will prevent the source of the light from being seen from any adjacent residential property or from the street.

Section 420. Schedules of Regulations for Districts

420.01 The accompanying Schedules of Regulations (Sections 421 and 422) list and define the use of land and buildings, the height of buildings, the yards and other open space to be provided in connection with buildings, the area of lots, off-street parking space, loading space, and other matters. The regulations listed for each district as designated are

hereby adopted and prescribed for each such district, subject to the provisions of this Section and, unless otherwise indicated, shall be deemed to be the minimum requirements in every instance of their application.

- 420.02 It is the intention that the uses set forth for each district shall not be permitted uses in any other district set forth in the Schedule, unless allowed specifically or by reference as permitted uses in said district. Only those uses listed for each district as being permitted shall be permitted.

Note: Sections 421 and 422 are set forth in the schedules annexed.

Section 430. Permitted Special Uses

431. General Provisions

The special uses for which conformance to additional standards is required by this Ordinance (See Schedules of Regulations - Sections 421 and 422) shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this Ordinance. All such uses are declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

432. Application for a Special Permit

Application for required special permits shall be made to the Town Board. Each such application shall be referred to the Planning Board for a report, which report shall be rendered prior to the date of public hearing on the application. The Town Board, after public hearing with the same notice required by law for zoning amendments, and with notice mailed to owners of record of property within 250 feet of the property included in the application, may authorize the issuance of a permit provided that it shall find that all the following conditions and standards have been met:

- 432.1 The location and size of the use, the nature and intensity of the operations involved in, 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.
- 432.2 The location, nature and height of buildings, walls, fences, and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
- 432.3 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 use not requiring a special permit.
- 432.4 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 safety.

433. Required Plan

A plan for the proposed development of a lot for a permitted special use shall be submitted with an application for a special permit. The plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, topography, special features, and any other pertinent information, including such information about neighboring properties as may be necessary to determine and provide for the enforcement of this Ordinance.

434. Conditions and Safeguards

The Town Board shall attach such conditions and

safeguards to the special permit as are necessary to assure continual conformance to all applicable standards and requirements.

435. Expiration of Special Permits

A special permit shall be deemed to authorize only the particular use or uses specified in the permit, and shall expire if said use or uses shall cease for more than six months for any reason, or if all required improvements are not made within one year from the date of issue.

436. Existing Violations

No permit shall be issued for a special use for a property where there is an existing violation of this Ordinance.

441. Office Business District

Within an "Office Business District," an office building development shall conform to the following standards:

441.01 No more than one main office building or integrated group of office buildings and its accessory buildings shall be located on any one lot, and each such lot shall fully comply with the requirements herein specified for the District.

441.02 Each lot devoted to office building use shall have frontage on an existing public street, or on a street approved by the Town Planning Board in the same manner as is prescribed by State Law for the approval of plats of subdivisions and in accordance with the requirements applicable to streets therein. In approving any such street, the Town Planning Board may require that:

(a) It shall be laid out so that it will not be necessary for the principal traffic between existing streets and the office building or buildings to travel through any areas having residential frontage on such streets, or that may be developed with residential frontage thereon.

(b) Its connection to an existing street shall be adequate in location, design and capacity so as to avoid unsafe conditions or traffic congestion.

441.03 Access and service drives shall be laid out in such a manner that connections with the street or streets on which the lot has frontage are located and designed so as to avoid unsafe conditions or traffic congestion.

441.04 No building shall be located at a distance less than one hundred fifty (150) feet from the street on which such building fronts, except that gate houses, bus stop shelters and security offices where such buildings are one story in height, may be located at a distance not less than twenty-five (25) feet from the street, and one-story accessory buildings may have such lesser setback when approved by the Planning Board when acting on plan referred to in 441.07. No building shall be located at a distance less than three hundred (300) feet from all other boundaries of the lot, except that where an office building exists or is subsequently erected on a contiguous lot, such distance may be reduced to not less than one hundred (100) feet on each side where such lots adjoin, and except that one-story accessory buildings may have such lesser setbacks when approved by the Planning Board when acting on the plans referred to in Section 441.07.

441.05 No buildings, shall exceed three (3) stories or forty-five (45) feet in height, and the third story shall not exceed in area 25 percent of the entire ground floor area of the building, except that there shall be no such limitation

on the area of the third story providing the building is at least 500 feet from the boundaries of the lot. The height of a building shall be measured from the average level of the finished grade across the entire front of the building.

The height limitations of this section shall apply to chimneys for central heating and power plants, but shall not apply to ventilators, skylights, water tanks, bulkheads, necessary mechanical appurtenances, and similar features not used for human occupancy and usually extended above the roof level, except that the total area covered by all such features shall not exceed twenty-five (25) percent of the roof area, and the height of any such feature shall not be more than fifteen (15) feet above the roof level.

441.06 Parking space shall be provided on the lot to accommodate company, employee and visitor motor vehicles, with at least one car space for each two employees for which the buildings on the lot are designed. Parking areas shall be permanently improved and suitably screened with planting, and shall be set back from all lot boundaries at least fifty (50) feet, except that in passing on a plan of development, as specified in 441.07 below, the Town Planning Board may approve a lesser distance between parking areas of adjoining office building developments.

441.07 No building permit or certificate of occupancy shall be issued for any office building or accessory building or use, except in accordance with a plan of development or amendment thereof approved by the Town Planning Board for the lot on which such office building is located. Such plan of development shall include architectural drawings, plans and specifications of proposed buildings, and shall show the location and height of buildings and structures and provisions for interior drives, parking space, signs, exterior lighting, and other facilities permitted or required by this Ordinance. The Planning Board shall consider the location and height of office buildings and related uses with respect to the topography of the lot, with the objective of securing the maximum harmony of such buildings and uses with the surrounding landscape. The Planning Board shall also consider whether the maximum size of the use should be limited, in terms of employees or other appropriate measure, in order to limit the potential generation of traffic to the capacity of the street system that serves it, and is authorized to so limit the use.

442. Roadside Business (RB) District

442.1 Existing Lots

442.11 After approval of site plan as hereinafter set forth, the Building Inspector is authorized to issue a building permit for the erection of a building on any existing lot which fails to have requisite area, frontage, width or depth by virtue of an amendment to the Zoning Ordinance or Zoning Map.

442.02 Where a lot is less than 200 feet in depth, the following schedule of front and rear yards shall apply:

Depth of Lot	Minimum Rear Yard	Minimum Front Yard
175 to 200'	50'	75'
170 to 175'	45'	75'
165 to 170'	40'	75'
160 to 165'	35'	75'

The site plan for such hotel development must be approved by the Planning Board, as required by Section 450.

448. Scientific Research Center Use
- Scientific research centers in Residence Zoning Districts shall require a special permit under Sections 431 to 436 inclusive of the Zoning Ordinance and shall conform to the following additional standards:
- 448.01 The site for each scientific research center shall have a minimum area of 50 acres, a minimum width of 1,000 feet, a minimum depth of 1,000 feet, and a minimum frontage of 1,000 feet along a major or secondary road as shown on the Town Development Plan.
 - 448.02 Use of a scientific research center site shall be limited to research in the natural sciences by a non-profit organization, plus incidental educational activities including seminars, lectures, biological laboratory study, group discussions and field study, with residence on a permanent basis limited only to those employees and their families necessary for the operation and maintenance of the facility.
 - 448.03 The maximum number of persons permitted to occupy, attend or be present at scientific research center sites at any one time shall be equal to no more than two persons for each one acre of site area except that gatherings lasting not longer than one day of no more than four persons for each acre of site area may be held four times in any Calendar year.
 - 448.04 Temporary guests shall be permitted to reside on the site provided they are participating in the activities of the Center, provided the density standards of Section 448.03 are not exceeded, and further provided that such guests are not in residence on the site for a period exceeding ten days, except that scientific Institute participants may reside on the premises for the period of the Institute, which shall not exceed six weeks in any Calendar year.
 - 448.05 Off-street parking for scientific research centers shall be provided on the basis of at least 2 spaces per resident family, one space per employee, and one space per 3 guests intended to occupy the site at any one time.
 - 448.06 Setbacks for new main buildings shall be at least 300 feet from any adjoining residential properties, 150 feet from any roads and 50 feet from any adjoining business properties. Setbacks for all new accessory buildings and parking areas shall be at least 100 feet from any adjoining residential properties, 100 feet from any roads and 25 feet from any adjoining business properties. Lesser setbacks for accessory buildings and parking areas may be approved by the Town Board in acting on any plan submitted in accordance with Section 430 of this Zoning Ordinance, provided proper protection is provided to neighboring residential areas.
 - 448.07 The maximum height limitation for all buildings on a scientific research center site shall be 2-½ stories/30 feet, and the maximum building coverage shall be limited to 5% of the total site area.
 - 448.08 All exterior lighting shall conform to the

- 448.09 The site for any scientific research center shall be attractively landscaped, particularly along those property lines which adjoin or are across the street from lots in a residential district. All landscaping necessary to suitably screen the use and activities conducted on a scientific research center site from the view of any observer standing at ground level on such adjoining residential properties shall be provided, subject to planting specifications approved by the Town Board as a part of the required plan described in Section 433 of this Ordinance. Such planting and landscaping shall be properly maintained at all times in accordance with such specifications so as to promote a development harmonious with adjoining residential properties.
- 448.10 No use shall be so conducted as to cause or result in any dissemination of noise, vibration, odor, dust, smoke, observable gas or fumes, or other atmospheric pollutant, radiation or interference with radio or television reception beyond the immediate site of the building in which such use is conducted, or of any hazard of fire or explosion, or other physical hazard to any person or to any building or to any plant growth.
449. Nursing Home or Convalescent Home Use
The following standards shall apply to such use:
- 449.1 a. There shall be no more than one patient bed for each 7,000 square feet of lot area with a maximum of 60 such beds.
- b. A new building shall be set back at least 200 feet from the street, 100 feet from each side lot line, and 100 feet from the rear lot line, and shall not cover more than 10 per cent of the site.
- c. The site shall be at least 200,000 square feet in area, except that no new building to be used for convalescent or nursing purposes shall be erected on a site of less than 8 acres in area.
- d. At least one off-street parking space shall be provided for each patient bed, and one for each employee. Such parking spaces shall be permanently improved and shall be located in the side or rear yards, but no closer than 75 feet to any property line. The Board shall require suitable landscaping and fencing of parking areas to protect surrounding residences.
- e. The building may be occupied only by patients, staff members, and the family of the owner or of one staff member.
- f. Any building to be used for convalescent or nursing home purposes shall be of fireproof construction and not more than two stories in height.
- g. One sign, not exceeding four square feet in area, not flashing and not lighted by exposed tubes, bulbs or other exposed light sources announcing the name of the convalescent or nursing home, may be

- permitted facing each public street.
 - h. Patients suffering from contagious disease, tuberculosis, mental disease or acute alcoholism shall not be permitted in a convalescent or nursing home.
- 450. Approval of Site Development Plans
- 451. Plan Required

Where required in the Schedule of Regulations, no building permit shall be issued and no building or use shall be established or continued except in conformity with a site development plan approved by the Planning Board, and no certificate of occupancy shall be issued until all of the requirements of this section, including those required by the Planning Board under the provisions of this section, have been met. Continued conformance with such a plan and such requirements shall be a condition of any certificate of occupancy.
- 452. Application for Site Plan Approval

An application for a building permit involving site plan approval by the Planning Board shall be made to the Building Inspector and shall be accompanied by the following information.

 - 452.01 Map of applicant's entire holding at a convenient scale.
 - 452.02 An area map showing all properties, subdivisions, streets and easements within 250 feet of applicant's property.
 - 452.03 Topographic map of property, unless waived by Planning Board.
 - 452.04 A detailed site plan showing location, proposed use and height of all buildings; location of all parking and truck loading areas with access and egress drives thereto; location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; description of method of sewage disposal and location of such facilities; location and size of all signs; location and proposed development of buffer areas and landscaping; location and design of lighting facilities, and the amount of building area proposed for retail sale uses, if any.
 - 452.05 In an Industrial District, specific uses proposed; number of employees for which buildings are designed; type of power to be used for any manufacturing processes; type of wastes or by-products to be produced by any manufacturing process, and proposed method of disposal of such wastes or by-products.
- 453. Referral of Application to Planning Board

Each application involving site plan approval, together with the required information described in Section 452, shall be referred to the Planning Board by the Building Inspector at the next regularly scheduled meeting of the Planning Board for action thereon; which action shall be taken by the Planning Board and decision thereon rendered to the Building Inspector within thirty (30) days of the date of application is received by the Planning Board. If no decision is rendered within thirty-five (35) days after date of meeting at which plan is submitted plan shall be deemed approved.
- 454. Standards for Site Plan Approval

In acting on any proposed site plan, the Planning Board shall take into consideration the recommendations of the Town Development Plan adopted by said Board, and the Official Map as it may be adopted by the Town Board. The Planning Board shall also consider the proposed location, height and bulk of buildings on the site, proposed traffic circulation within and without the site proposed, provision of off-street parking space, exterior lighting, buffer areas and other open spaces

on site, and display of signs, so that any development will harmoniously and satisfactorily fit in the contiguous land and buildings and adjacent neighborhoods, and so that pedestrian and vehicular traffic will be handled adequately and safely within the site and in relation to the adjoining street system.

455. Planning Board Initiative

The Planning Board may, on its own initiative, propose a general or specific site plan for a particular area where a site development plan approval may be required in the future, using the requirements of this Ordinance as a guide.

460. Off-Street Parking, Loading and Vehicular Access

461. General

It is the intention of this Ordinance that all structures and land uses be provided with a sufficient amount of off-street motor vehicle parking to meet the needs of persons employed at or making use of such structures or land uses, and sufficient off-street loading and unloading facilities to meet the needs of such structures or land uses.

462. Required Space to be Shown on Plan

The plan for any new building or any expansion of an existing building, when submitted for a building permit, shall show specifically the location, size and type of improvement of the off-street parking or loading space required to comply with this Ordinance and the means of access to such space from the public streets or highways. Except for one or two-family dwellings, no building permit shall be issued until such plan for parking and loading space and access to it and required improvement is approved by the Planning Board, which shall determine that traffic access, traffic circulation and general layout of the parking facility is planned with regard to safety to traffic on the public street, and safety and adequacy of access for cars and pedestrians using the parking facility. No certificate of occupancy shall be issued for any building or land use until the required off-street parking space has been established.

463. Existing Structures and Uses

463.01 Structures and land uses in existence, or for which building permits have been approved at the time of the adoption of this Ordinance, shall not be subject to the parking or loading space requirements of this Ordinance, provided that any parking and loading facilities then existing to serve such structures or uses shall not in the future be reduced, or designated to serve other structures or uses except where they exceed such requirements, in which case they shall not be reduced below such requirements. Required parking and loading facilities for the existing portion of such uses shall, however, be provided at the time of any enlargement of such existing structures or uses or the further development of the property upon which they are located in the future.

463.02 In case of exceptional difficulty or unusual hardship to such properties arising out of this requirement, appeal may be made to the Board of Appeals which shall require such degree of compliance as it may deem reasonable for that part of the structure or use that is legally non-conforming, but shall not waive any part of the requirement for that part of the structure or use that constitutes an enlargement or expansion, and shall not permit reduction or elimination of whatever quantity of parking that may already exist, unless it is in excess of requirements.

463.03 Required off-street parking facilities which, after development, are later dedicated to and accepted by the Town, shall be deemed to continue to serve the uses or structures for which they were originally provided.

464. Off-Street Parking Requirements
Off-street motor vehicle parking facilities shall be provided as required by the list below, except where additional parking requirements may be required under Section 432.4 or as may be modified under the provisions of Section 463 above. Size of parking space and parking area shall be as defined in Section 220.

Uses	Minimum Required Off-Street Parking
464.01 One and two-family dwellings	-2 spaces for each dwelling unit.
464.02 Multi-family dwellings for three or more families	-1½ spaces for each dwelling unit (one-half of the required car spaces shall be directly accessible to the normal approach from the street to each main entrance to a residential building and within 100 feet of that entrance).
464.03 Professional offices or home occupation permitted in a residential zone as an accessory use	-2 spaces in addition to spaces required for residential uses. Medical or dental offices shall have 4 spaces in addition to spaces required for residential uses.
464.04 Hotel, rooming house	-1 space for each guest sleeping room and in addition 1 space for each 600 sq. ft. of non-rentable floor space exclusive of basements.
464.05 Retail or service business	-3 sq. ft. of off-street parking for each sq. ft. of usable floor area on the ground floor, and 1½ sq. ft. of off-street parking area for each sq. ft. of usable floor space in other areas, except in a PB District, which requirement is given below. In a PB District there shall be provided 4 sq. ft. of off-street parking area for each square foot of ground floor space, and 2 sq. ft. of off-street parking area for each square foot of floor space in the second story.
464.06 Business or professional office	-1 space for each 200 sq. ft. of usable floor area, except in an OB District where the provisions of Section 441.06 shall apply.
464.07 Restaurant or place dispensing food or drink	-4 sq. ft. of parking area for each square foot of floor space.
464.08 Bowling Alley	
464.09 Theatre, auditorium, stadium, or other place of public assembly including a church	-6 spaces for each bowling lane. -1 space for each 5 seats in such place of assembly.

- 464.10 Other places of amusement of places of public assembly, the capacity of which cannot be measured in terms of seats -1 space for every 200 sq. ft. of floor area devoted to public use.
- 464.11 Industrial, wholesale, storage, utility or other commercial building or use. -1 space for each employee and for each commercial vehicle garaged on the lot.
- 464.12 Other uses not listed -Off street parking requirements for types of uses which do not fall within the categories listed above shall be determined by the Town Board and adopted as an amendment to this Ordinance.
- 464.13 Where two or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements for each individual use on the lot, except that the Planning Board may approve the joint use of parking space by two or more establishments on the same or on contiguous lots, the total capacity of which space is less than the sum of the spaces required for each, provided said Board finds that the capacity to be provided will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons and employees among such establishments, and provided such approval of such joint use shall be automatically terminated upon the termination of the operation of any such establishments. The Board shall require, as a condition of its approval, a legal instrument satisfactory to the Town Counsel assuring the continued use of joint parking facilities in connection with the uses they serve.
- 464.14 Funeral homes - 20 spaces plus one space for each employee and one space for each commercial vehicle garaged on the lot.
- 465 Layout and Location of Off-Street Parking Facilities
- 465.01 The required off-street parking facilities shall be provided on the same lot or premises with the structure or land use they serve, except that off-street parking space required for structures or land uses on two adjoining lots may be provided in a single common facility on one or both of said lots, and except that the Planning Board may permit all or part of the required space to be located on any lot within 250 feet of the building in the same zoning district or another zoning district where such parking is a lawful use, if the said Board determines that it is impractical to provide parking on the same lot with the building. Where said Board approves the location of such parking spaces on a different lot than the lot occupied by the use served by the parking spaces, the Board shall require, as a condition of its approval, a legal instrument satisfactory to the Town Counsel assuring the continued use of said parking spaces in connection with the land uses and structures they serve.
466. Improvement of Parking Facilities
Required off-street parking facilities may be enclosed in a structure or may be open, provided that all

required parking facilities shall be graded, paved, drained and suitably maintained to the extent deemed necessary by the Town Engineer to avoid nuisances of dust, erosion, or excessive water flow across public ways or adjacent lands. Off-street parking areas designated to serve non-residential uses shall be provided with suitable markings to indicate individual parking spaces, maneuvering area, entrances and exits. Except for one and two-family dwellings, suitable landscaping and screening shall be provided between parking areas and adjoining property in residence districts. (See Section 412.13 for requirements.)

Parking areas in commercial, business and industrial districts shall be suitably improved with surfacing consisting of 6" of granulated base and 2" of asphaltic concrete top and adequate drainage facilities, which surfacing and drainage facilities shall be properly maintained. Where the Planning Board finds that the immediate use of the property does not require full improvement of the entire parking area, the Board may in approving site development plans, waive the improvement of up to one-third of the area, provided that the total area is noted as being reserved for parking and provided that satisfactory guarantees are given for the eventual improvement of the entire parking area as the demand increases.

467. Operation and Maintenance of Off-Street Parking Facilities

Required off-street parking facilities shall be maintained as long as the use or structure exists which the facilities are designed to serve. Required parking areas developed for specific structures and uses shall be served at all times to those persons who are employed at or make use of such structures and land uses, except when dedicated to and accepted by the Town as public parking areas.

468 Off-Street Loading Requirements

Off-street loading and unloading facilities, as defined in this Ordinance and located on the same site with the use to be served, shall be provided as follows:

468.01 For retail and service business establishments, restaurants and other places serving food and beverages: One space for the first 10,000 square feet of floor area used for business purposes, and one space for each additional 10,000 square feet, but such space shall be required when the ground floor area is less than 2,000 square feet.

468.02 For industry, wholesale businesses, storage warehouses, and other commercial establishments: one space for the first 4,000 square feet, or major portion thereof, used for such purposes, and one additional space for each 10,000 square feet, or major portion thereof, in excess of the first 10,000 sq. ft.

468.03 Off-street loading requirements for structures and land uses which do not fall within the categories listed above shall be determined by the Town Board and adopted as an amendment to this Ordinance.

470. Minimum Dwelling Unit Size

471. Livable Floor Area

No building permit shall be issued for the construction of a new dwelling in any zoning district unless the building plans indicate that each dwelling unit contains at least the required livable floor area as set forth in the following schedule:

- Types: A. - 1 Story or Split Level Residence
B. - 1½ Story and 2 Story Residence

District	Type	Required Livable Floor Area	Min. Livable 1st Floor Area (See 472 below)	Max. Add'l Allowance to 1st Floor Area (See 473 below)	Max. Allowance Livable Area on 2nd Floor (See 476 below)
R-4A	A	2,000	1,600	400	None
	B	2,000	1,300	None	700
R-2A	A	1,800	1,400	400	None
	B	1,800	1,100	None	700
R-1.5A	A	1,600	1,300	300	None
	B	1,600	1,000	None	600
R-1A	A	1,400	1,200	200	None
	B	1,400	950	None	450
R-30	A	1,200	1,000	200	None
	B	1,200	900	None	300
R-20	A	1,000	900	100	None
	B	1,000	850	None	150
R-10	A	900	900	None	None
	B	900	800	None	100
R-5	A	800	800	None	None
	B	800	800	None	None
Business Zones Where Residence is Permitted.	A	800	800	None	None

472. "Minimum livable first floor area" shall include all floor area used for human occupancy within the exterior walls of the proposed dwelling above first floor beams, excluding therefrom open porches, storage room, or utility room for furnace, hot water heater, water storage tank, or fuel storage tank or breezeway, or garage, except as may be allowed as additional livable area as set forth in said schedule.

473. "Maximum additional allowance to first floor area" shall include livable floor area other than defined to be allowed in the aggregate as set forth in said schedule and under the conditions hereinafter set forth, to wit:

473.1 Any room, which does not qualify as first floor area, provided it has finished ceiling and sidewalls which shall be of plaster or wood panel or equal, and wood floor or equal at least 7'6" in height, constructed at least 50% above ground level and having not less than 10% of the floor area of natural light and ventilation, may be counted as additional livable floor area but in no event either individually or together with other allowable additional area is to exceed the maximum amount set forth in the above schedule. Basement area shall not qualify hereunder, unless granted by Architectural Board of Review.

473.2 A garage, fully enclosed, physically attached to the side of the building may be counted as additional floor area provided it is not lower than 2 feet below the first floor level at the front of the proposed dwelling with an entrance thereto in the rear or side of the garage, but in no event either individually or together with other allowable additional area is to exceed the maximum amount set forth in the above schedule.

473.3 A Breezeway, physically attached to the dwelling permanently enclosed with frame or masonry construction with required windows and connecting with the garage may be counted as additional floor area, provided it is not lower than two feet below the first floor level at the front of the proposed dwelling, has a ceiling height not less than 7 feet 6 inches and contains a finished floor area of not less than 12 feet by 10 feet, but in no event either individually or together with other allowable additional area is to exceed the maximum amount set forth in the above schedule.

474. **Compliance With Paragraph 473.2 Hereof**
Where compliance with paragraph 473.2 hereof is impractical, due to physical topography and dimensions of the lot area, so that location of the garage door or doors would not be practicable, the Architectural Board of Review in the consideration of the building plans may waive compliance therewith.
475. **Non-Conformance With the Applicable Minimum Square Feet.**
Where it appears by the affidavit of the owner and by the supporting certificate of the owner's registered Architect or Civil Engineer in form as prescribed by the Town Board that within a district of 500 feet from the proposed dwelling and within the same zoning district a majority of the constructed dwellings do not conform with the applicable minimum square feet area therein, the Building Inspector may issue a building permit for the average livable area of the dwellings within said 500 feet, counting vacant lots as full livable area in said zoning district, but not less than 200 square feet below the required minimum for said area and in no case for less than 800 square feet of first floor area as defined in the above schedule.
476. **Livable Area on Second Floor**
"Livable area on second floor" shall include only rooms with minimum of 120 square foot area with finished ceiling at least 5 feet vertically above finished floor with at least two-thirds of its area having a ceiling height of not less than 7'6"; but in no event shall the allowable livable area exceed the amount set forth in the above schedule.
480. **Non-Conforming Uses and Other Non-Conformities**
481. **Continuing Existing Uses**
Except as otherwise provided herein, particularly in Section 487 and 486, the lawfully permitted use of land or buildings existing at the time of the adoption of this Ordinance may be continued although such use does not conform to the standards specified in this Ordinance for the zone in which such land or building is located. Said uses shall be deemed non-conforming uses.
482. **Non-Conforming Use of Land**
The non-conforming use of land may be continued, provided, however, that no such non-conforming use shall be enlarged or increased, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of this Ordinance, unless specifically allowed by other provisions in this Ordinance, nor shall any such non-conforming use be moved in whole or in part to any other portion of the lot or parcel of land occupied by such non-conforming use at the time of the adoption of this Ordinance, provided, further, that if such non-conforming use of land, or any portion thereof, ceases for any reasons for any continuous period of more than six (6) months, or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of this Ordinance. No non-conforming use of land shall be changed to another non-conforming use.
483. **Non-Conforming Use of Buildings**
- 483.01 A building or structure, the use of which does not conform to the use regulations for the district in which it is situated, shall not be enlarged or extended unless the use therein is changed to a conforming use (see also Section 484).
- 483.02 Such non-conforming building shall not be structurally altered to an extent greater than fifty percent of its actual value as determined by the Town Assessor, unless such alterations are required by law or by the provisions of Section 487, provided, however, that such maintenance and repair work as is required to keep a non-conforming building or structure in sound condition shall be permitted; and

provided further that any such non-conforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use at the time of the adoption of this Ordinance.

- 483.03 A non-conforming use of a building may be changed only to a conforming use.
- 483.04 If any non-conforming use of a building ceases for any reason for continuous period of more than one year, or is changed to a conforming use, or if the building in or on which such use is conducted or maintained is moved for any distance whatever for any reason, then any future use of such building shall be in conformity with the standards specified by this Ordinance for the district in which such building is located.
- 483.05 If any building in which any non-conforming use is conducted or maintained is hereafter removed, the subsequent use of the land on which such building was located, and the subsequent use of any building thereon, shall be in conformity with the standards specified by this Ordinance for the district in which such land or building is located.
484. **Non-Conformity, Other Than Use**
A building that is conforming in use but does not conform to the height, yard, lot area, lot dimension, land coverage, off-street parking, loading, minimum house size, or similar dimensional requirements of this Ordinance, shall not be considered to be non-conforming within the meaning of Section 483. No permit shall be issued that will result in the increase of any such non-conformities.
485. **Restoration of Damaged Buildings**
If any non-conforming building shall be destroyed by any means to an extent of more than fifty percent, no repairs or reconstruction shall be made unless every portion of such building is made to conform to all the regulations of this Ordinance for district in which it is located. Where the destruction of such non-conforming building is less than 50 percent, it may be restored and the non-conforming use continued, provided that the total cost of such restoration does not exceed the replacement value of the destroyed portion of the building at the time of its destruction and, further provided, that such restoration is started within a period of six months of such destruction and is diligently prosecuted to completion. Nothing in the Ordinance shall prevent the strengthening or restoring to a safe condition of any wall declared unsafe by the Building Inspector.
486. **Non-Conforming Signs**
Regardless of any other provisions of this Ordinance, every sign which, after the adoption of this Ordinance, may exist as a non-conforming use in any district shall be discontinued and removed, or changed to conform to the standards of said district within a period of 120 days from (the date of adoption of this Ordinance).
487. **Compliance with Limitations on External Effects of Uses**
In order that all other non-conforming uses may gradually be brought into greater conformity with the Ordinance or the adverse external effects of such non-conforming uses may be reduced, the Planning Board shall review each non-conforming use and propose a plan whereby, through landscaped screening and buffer areas, control of noise, smoke, odors, lighting and other external characteristics, architectural changes, location and layout of parking areas and access drives, or by other appropriate means, such purposes may be achieved. Such plan shall be presented to the Town Board which, after public notice and hearing, may approve such plan. Within a period of not more than 3 years from the date the the Town Board approves such plan, the owner of the property where the non-conforming use

is located shall bring such use into compliance with such plan as a condition of continuing its legal non-conforming status under the Ordinance.

ARTICLE V – ADMINISTRATION AND ENFORCEMENT

500. Enforcement

501. General

No board, agency, officers or employee of the Town shall issue, grant or approve any permit, license, certificate,, or other authorization for any construction, reconstruction, alteration, enlargement, or moving of any building or structure, or for any use of land or building that would not be in full compliance with the provisions of this Ordinance, except as permitted under Section 542.03. Any such permit, license, certificate, or other authorization issued, granted or approved in violation of the provisions of this Ordinance, shall be null and void and of no effect without the necessity of any proceedings or revocation or nullification thereof.

502. Building Inspector-Right to Enter

Unless otherwise provided, the Building Inspector and any other person designated for the purpose, shall enforce the provisions of this Ordinance, and any rules and regulations made or as may be made in furtherance thereof. For such purposes he, or other designated person, may, from time to time and at reasonable hours, enter and inspect any such building, structure or premises, and may perform any other act or duty necessary for the proper enforcement thereof.

503. Records and Reports

503.01 The Building Inspector shall keep a permanent record, including all pertinent maps and plans, of all applications for building permits and certificates of occupancy.

503.02 The Building Inspector shall also keep a permanent record of all violations of this Ordinance, whether reported by private citizens or by any board, agency, officer or employee of the Town, and such record shall show the disposition of all such violations.

503.03 The Building Inspector shall make a report to the Town Board, in writing, at least once each month, reporting the number and type of building permits and certificates of occupancy issued, and listing all reported or continuing violations of this Ordinance, and disposition or pending action of such violations.

510. Building Permits

511. No building or structure shall be erected, constructed, enlarged, altered or moved, or excavation made therefor, or work begun thereon, until a permit therefor has been issued by the Building Inspector. Except upon a written authorization of the Board of Appeals, under circumstances set forth in Section 542.03, no building permit or certificate of occupancy shall be issued for any building or structure where said construction, addition, alteration, moving or use thereof would be in violation of any of the provisions of this Ordinance.

512. Before any permit shall be issued, written application thereof shall be made in duplicate on official Town forms. All applications, except those for signs, shall be accompanied by two copies of a layout or plot plan, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of all buildings proposed to be built on the lot, and of any existing buildings or structures that shall remain, the existing and intended use of each building or part of the building, the number of families that the building is designed to accommodate, the nature of the improvement, the estimated cost, and the intended use or purpose to be made of the improvement and premises, and such

- other information with regard to the lot and neighboring lots that may be necessary to determine and provide for the enforcement of this Ordinance. One copy of such plan shall be returned to the owner, either in person or by mail, when such plans shall have been approved by the Building Inspector.
513. Upon completion of the footings of a building, the owner or his authorized agent shall submit to the Building Inspector a certified plot plan prepared by an engineer or land surveyor licensed to practice in the State showing the location of such foundation walls on the lot. No building shall thereafter be constructed above the foundation walls until said plot plan survey has been approved by the Building Inspector as complying with the pertinent provisions of this Ordinance. No certificate of occupancy shall be issued until a certified survey showing the completed building and all appurtenances upon property be submitted to and approved by the Building Inspector.
514. Such permit shall, among other things, briefly describe the premises, the nature of the improvement, the estimated cost, and the intended use or purpose to be made of the improvement and premises. It shall bear date of issuance and be signed by the official issuing the same. Any such permit issued by the Board of Appeals shall be approved by a majority of the members thereof and attested by the Clerk of said Board. The original application and a duplicate copy of the plans, specifications and permit issued, shall be filed immediately in the office of the Building Inspector. No building, land or premises shall be used for any purpose other than that stated in the permit.
- Where in the opinion of the Town Board, any permit hereinafter issued by the Building Inspector was improperly or unlawfully issued, or was procured through fraud or deception, the Town Board may direct the Building Inspector to revoke the same.
515. No building permit shall be issued for a use listed in Sections 421 or 422 as subject to additional standards, except in conformity with the procedure set forth in Section 430. No building permit shall be issued in any Business or Industrial District except in conformity with the provisions of Section 450 requiring site development plan approval by the Planning Board, where Section 422 calls for such approval.
516. A building permit shall be void if construction is not started within a period of twelve (12) months, or is not completed within a period of two years of the date of said permit, except where a special permit is required in which case the more restrictive provisions of Section 435 of this Ordinance shall be complied with.
517. Any building, extension or alterations for which a permit has been duly granted, the construction of which has been started before the effective date of this Ordinance, or of an amendment thereto, and the ground story framework of which, including the second tier of beams, has been completed within one year after the adoption of this Ordinance or an amendment thereto, may be completed in accordance with plans on file with the Building Inspector, provided that such construction is diligently prosecuted and the building is completed within two years of the adoption of this Ordinance or an amendment thereto. If any of the requirements shall not have been fulfilled within the prescribed period, or if the building operations are discontinued for a period of six months, any other construction shall be in conformity with the provisions of this Ordinance.
518. Whenever the Town Board, by resolution, authorizes a public hearing on a proposed amendment to this Ordinance, for a period of sixty (60) days following the date of such resolution, no building or structure shall be erected, enlarged or altered, and no permit shall be issued for the erection, enlargement or

alteration of any building or structure or for the occupancy of any land or building in any manner that would be contrary to the provisions of the proposed amendment.

520. Certificate of Occupancy

521. It shall be unlawful for an owner to use or permit the use of any building or premises, or part thereof, hereinafter created, erected, changed, converted or enlarged, wholly or partially in its use or structure, until a certificate of occupancy shall have been issued by the Building Inspector. Such certificate shall state that such building or premises, or part thereof, and the proposed use thereof are in complete conformity with the provisions of this Ordinance. It shall be the duty of the Building Inspector to issue a certificate of occupancy provided that the building and the proposed use of the building or premises conform with all of the requirements herein set forth.

522. Application for such a certificate shall be made on official form and filed with the Building Inspector. Within ten (10) days thereafter, the Building Inspector shall act thereon by either issuing a certificate or by denying the application. He shall forthwith notify such owner or applicant in writing personally, or by mail, of his decision. Every applicant for a certificate of occupancy shall pay therefor, to the Building Inspector, a fee of Two (\$2.00) dollars.

523. A temporary Certificate of Occupancy for a building or part thereof may be issued for a period not to exceed ninety (90) days provided that:

Said building or part thereof must be completely enclosed, watertight and have been passed by the Building Inspector on both the footing and framing inspections. All electrical roughing must be installed and the Board of Fire Underwriters' first inspection must have been completed and approved. If fixtures are omitted, cover plates must be installed with no exposed wires and no uncovered junction boxes permitted. The heating system must be permanently installed in accordance with the manufacturer's directions. Temporary controls may be used to operate said heating system. Domestic water must be available for said premises or portion thereof if required. A septic system must be installed or a sanitary sewer connection shall be completed. Either must be operable.

Provided that good cause be shown, the Building Inspector shall have the power to grant one extension of such temporary permit for an additional period of ninety (90) days.

524. A certificate of occupancy shall be deemed to authorize, and is required for both initial, continued or changed occupancy and use of the building or land to which it applies. It shall continue in effect as long as such building and the use thereof, and the use of such land is in full conformance with the provisions of this Ordinance and any requirements made in connection therewith at the time of the issuance thereof. The details of any plan or site plan approved by the Town board, Planning Board, or Board of Appeals acting under the terms of this Ordinance, and any conditions attached to such approval, shall be deemed to be such requirements.

525. Upon the service of notice by the Building Inspector of any violation of any of the provisions or requirements with respect to any building or the use thereof, or of land, the certificate of occupancy for such use shall thereupon become null and void.

526. A copy of a certificate of occupancy shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected. Upon request, and by payment to the Town of a fee of Two (2.00) Dollars, the Building Inspector shall issue a certificate of occupancy for any building or premises, certifying, after inspection, that the

extent and kind of use and disposition conforms with the provisions of this Ordinance.

530. Violations and Penalties

531. Any person, firm, corporation or other entity, who shall violate any provision of this Ordinance, or who shall violate any other regulation made under authority conferred thereby, or who shall knowingly assist any other in the violation thereof by any architect, engineer, builder, contractor, sub-contractor, employee or other person, lawfully employed upon his premises, or in connection therewith, or who shall fail to comply therewith, or with the requirements thereof, or who shall build, add to, alter, or locate any building or other structure in violation thereof or in violation of any detailed plan or statement submitted and approved as in this Ordinance provided, or who shall knowingly assist therein, or who shall use any land, building, or premises in violation thereof, or who shall design any building or other structure to be used in violation of this Ordinance or such regulations made supplemental thereto, shall be guilty of an offense as set forth in Section 268 of the Town Law, and liable to a fine not exceeding Fifty (\$50.00) Dollars, or by imprisonment for a period not to exceed six (6) months, or both. Each week's continued violation thereof shall constitute a separate additional violation. In addition to the foregoing punitive and remedial provisions, the Town shall have such other remedies for any violation or threatened violation of this Ordinance, as now or hereafter may be provided by law.

532. In case any building or structure is erected, constructed, reconstructed, altered, converted, located or maintained, or any building, structure, land or premises is used in violation of this Ordinance or any regulation made pursuant thereto or under authority conferred thereby, in addition to other lawful remedies, any appropriate action or proceedings may be instituted to prevent such unlawful erection, construction, alteration, conversion, repair, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, land or premises, or to prevent any illegal act, conduct, business or use in or about such premises. The Building Inspector shall serve written notice, either by personal service or by certified mail, "return receipt requested," addressed to the premises of such violation, on the person or corporation committing or permitting the same and, if such violation does not cease within such time as the Building Inspector shall specify, but not less than five (5) days, he may institute such of the foregoing action as may be necessary to determine the violation. Such notice may also be served by posting on the premises.

540. Board of Appeals

541. Organization

A Board of Appeals, as heretofore established by the Town Board, is hereby maintained.

542. Powers and Duties

542.01 General

The Board of Appeals shall have all the powers and duties prescribed by Town Law and by this Ordinance, which powers and duties are summarized and more particularly specified as follows, provided that none of the following sections shall be deemed to limit any of the power of the Board of Appeals that is conferred by the Town Law. The Board of Appeals shall adopt such rules and the regulations as may be necessary or proper to the performance of its powers and duties hereunder, and may amend or repeal the same. All provisions of this Ordinance relating to the Board of Appeals shall be strictly construed; the Board, as a body of

limited jurisdiction, shall act in full conformity with all provisions of law and of this Ordinance and in strict compliance with all limitations contained herein.

542.02 Interpretation — On appeal from an order, requirement, decision or determination made by an administrative official charged with the enforcement of this Ordinance, or on request from any official or agency of the Town, the Board of Appeals shall have authority to decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact application of the rules specified in Section 320.

542.03 Variances — On appeal from an order, requirement, decision or determination made by an administrative official charged with the enforcement of this Ordinance, the Board of Appeals shall have the power to vary or adjust the strict application of the regulations or provisions of this Ordinance, where the strict application of any of the requirements of this Ordinance, in the case of an exceptionally irregular, narrow, shallow, or steep lot, or other exceptional physical conditions, would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. No variance shall be granted by the Board of Appeals unless it finds:

542.031 That there are special circumstances or conditions, fully described in the findings of the Board, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant subsequent to the adoption of this Ordinance, whether in violation of the provisions hereof or not.

542.032 That, for reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building, and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the Board is the minimum variance that will accomplish this purpose.

542.033 That the granting of the adjustment is in harmony with the general purpose and intent of this Ordinance and of the Town Development Plan, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

542.04 Conditions and Safeguards

In all cases where the Board of Appeals authorizes the issuance of a building permit or occupancy permit, under any of the above powers, it shall be the duty of said Board to attach such conditions and safeguards as may be required to protect the public health, safety, morals and general welfare.

543. Appeals — How Taken to Board of Appeals

All appeals and applications to the Board of Appeals shall be taken in the manner prescribed by law and within such time as shall be prescribed by the Board of Appeals by general rule. All such appeals and applications to the Board shall be made by the owner or agent duly authorized, in writing, and shall be on forms prescribed by the Board. Each appeal or application shall fully set forth the circumstances of

the case; shall refer to the specific provision of the Ordinance involved, and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the adjustment that is applied for, and the grounds for which it is claimed that the same should be granted or the use for which a permit is sought.

544. Notice of Hearing

Notice of any hearing before the Board of Appeals shall be published in a newspaper circulating within the Town of North Castle, at least five days prior to the date of said hearing, and any mailing of notices that may be required by the Board of Appeals shall be at least five days before such hearing. The preparation and cost of publication and mailing of any notice required for such hearing shall be at the cost and expense of the applicant.

Notice of any hearing shall be sent by certified mail "return receipt requested" to all property owners within a distance of 250 feet of the property lines on both sides of the street on which the property fronts, and to the adjoining property owner or owners to the rear of the property affected. In addition, the Board shall give any other notice required by law.

545. Referral to Planning Board

At least five (5) days before the date of the hearing required by law on an application or appeal to the Boards of Appeals, the secretary of said Board shall transmit to the secretary of the Planning Board a copy of said application or appeal, together with a copy of the notice of the aforesaid hearing, and the Planning Board may, prior to or on the date of said hearing, submit to the Board of Appeals an advisory opinion on said application or appeal.

546. Action by Board of Appeals

Every decision of the Board of Appeals shall be by resolution; shall be recorded in accordance with standard forms adopted by the Board, and shall fully set forth the circumstances of the case and the findings on which the decision was based. Timely notice of all decisions shall be given to all parties to the proceedings. The Board shall decide on matters referred to it within 60 days after the final hearing, and shall within 10 days thereafter file a copy of each such resolution in the Office of the Town Clerk, together with all supporting documents, and a copy of said resolution with the Planning Board and the Building Inspector. The Board of Appeals shall report to the Town Board periodically, at intervals of not greater than three months, summarizing all applications and appeals made to it since its last previous report, and summarizing its decisions on such applications and appeals. A copy of such report shall be filed with the Planning Board and the Building Inspector at the same time that it is filed with the Town Board.

547. Court Review --How Taken on Board of Appeals Actions

Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department, board or bureau of the Town, may apply to the Supreme Court for relief in the manner provided for by law.

550. Fees

551. For the purpose of defraying administrative costs involved in the review of applications and appeals and the legal notices required by law, the following actions shall be accompanied by a fee in the amount prescribed and payable to the Town of North Castle (in those cases where the fee is based upon numbers of parking spaces but the parking requirements of this Ordinance are expressed in terms of square feet of parking area, the number of spaces shall be determined on the basis of one per 350 square feet, or portion thereof, of parking area required):

551.01 Each application or petition requesting any amendment, supplement, change,

- modification, or repeal of the zoning regulations or district boundaries, submitted in accordance with Section 600 of this Ordinance \$25.00
- 551.02 Each application for a special permit, in accordance with Section 430 of this Ordinance . . . \$1.00 for each new off-street parking space required (minimum charge \$25.00)
- 551.03 Each application for site plan approval, in accordance with Section 450 of this Ordinance . . . \$.50 for each new off-street parking space required (minimum charge \$25.00)
- 551.04 Each appeal or application taken to the Board of Appeals, in accordance with Section 540 of this Ordinance \$25.00
552. The above schedule of fees is in addition to any and all other fees required by this or any other section of this Ordinance, or any other Town Ordinance or Regulation.

ARTICLE VI – AMENDMENTS

600. Amendments
601. Enabling Act
The Town Board may from time to time, on its own motion, on petition, or recommendation of the Planning Board, amend, supplement, or repeal the regulations and provisions of this Ordinance in the manner provided by Town Law.
602. Petition
Upon presentation to the Town Board of a petition requesting an amendment, supplement, change, modification or repeal of the regulations and/or restrictions prescribed for any such district or part thereof, or for a change or modification in such district's boundaries as shown on the Zoning Map, duly signed and acknowledged by the owners of at least fifty (50) percent of the area included in such proposed amendment or in the zoning district affected by such proposed amendment, it shall be the duty of the Town Board to hold a public hearing thereon within sixty (60) days thereafter.
603. Planning Board
Every such proposed amendment or change shall be referred to the Planning Board for report thereon before the public hearing required by law. In recommending the adoption of any such proposed amendment, the Planning Board shall state, in writing, its reasons for such recommendation, describing any conditions that it believes makes the amendment advisable, and specifically setting forth the manner in which, in its opinion, the amendment would be in harmony with the comprehensive plan of land use for the Town, and be in furtherance of the purposes set forth in Article I of this Ordinance. In recommending the rejection or revision of any proposed amendment, the Planning Board shall similarly state its reasons. Failure on the part of the Planning Board to report to the Town Board its recommendation with respect to any proposed amendment within thirty (30) days after the date of referral shall be deemed to be approval thereof, unless such proceedings have theretofore been terminated.

ARTICLE VII – MISCELLANEOUS

700. Interpretation
In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort, and general welfare, and more particularly for the purposes set forth in Section 100. It is not intended by this ordinance to interfere with or abrogate or annul any easement, covenant, or other agreement between parties, provided however, that when this ordinance imposes

a greater restriction on the use of buildings or land or on the heights of buildings, or requires larger open spaces, or makes any other greater requirements than are imposed or required by any other ordinance, rule, regulation or by easements, covenants, or agreements, the provisions of this ordinance shall control.

701. Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared by any court of competent jurisdiction to be invalid, such invalidity shall not affect any other portion of this ordinance. The Town Board hereby declares that it would have adopted every section, subsection, paragraph, sentence, clause and phrase of this ordinance regardless of the fact that any other section, subsection, paragraph, sentence, clause or phrase be declared invalid.

702. Short Title

This ordinance shall be known and may be cited as the "Town of North Castle Zoning Ordinance."

STATE OF NEW YORK
COUNTY OF WESTCHESTER ss:
TOWN OF NORTH CASTLE

I, JOSEPH T. MILLER, Town Clerk of the Town of North Castle,
Westchester County, New York, do hereby certify as follows:

That the foregoing Ordinance was duly adopted by the Town
Board of the Town of North Castle on May 29, 1964, at a regular
meeting thereof, at which time a quorum of said Town Board was
present and voted thereon:

That I have compared the foregoing with the original ordinance
and amendments on file in my said Office and that the same is a true
and correct transcript of said original as modified by the
amendments that were adopted from time to time through and
including October, 1970.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed the seal of said Town, this 1st day of October, 1970.

JOSEPH T. MILLER,
Town Clerk