

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
October 24, 2012

The meeting was called to order at 6:00 p.m. on the duly adopted motion of Councilman D'Angelo and immediately adjourned into executive session. All Town Board members and the Town Attorney were present for the executive session which closed at 7:25 p.m. The Town Clerk joined the regular meeting which reconvened at 7:35 p.m.

Supervisor	Howard B. Arden
Councilmen:	Michael J. Schiliro
	Diane DiDonato Roth
	John J. Cronin
	Stephen D'Angelo

Town Clerk	Anne Curran
Town Attorney	Roland A. Baroni

Town Administrator Joan Goldberg

The Town Board recognized long-time residents Lorraine Wuttke and William Golub on their induction to Westchester County Senior Citizens Hall of Fame.

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, approval of the minutes of the October 10, 2012 meeting.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden.

Noes: None.

The minutes of the public hearings that commenced at 7:50 p.m. follow at the end of these minutes.

Councilman DiDonato Roth moved, seconded by Councilman Schiliro, receipt of letter from Westchester County Planning Board regarding Brynwood Golf and Country Club with notification of intent of the Town Board to act as Lead Agency, and request that the Town set aside a minimum of 10% of the units to meet the affordable Affirmatively Furthering Fair Housing (AFFH) requirement.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, receipt of letter from Jay Fain & Associates regarding potential impacts of release of water from North Lake into Long Pond, and suggested measures to insure there be no impact to Long Pond from external sources.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, receipt of Article 78 Petition and referral to Town Attorney regarding certain former and current town employees and elected officials vs. the Town concerning modifications to benefits.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

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Councilman D'Angelo moved, seconded by Councilman Schiliro, receipt of memo from Planning Director Kaufman regarding recommendation to establish performance bond and inspection fees for Byram Ridge Road Subdivision.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, authorization for Recreation Supt. Snyder to issue a Request for Proposal for vending machines in the Town's parks and recreation facilities.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Councilman DiDonato Roth moved, seconded by Councilman Schiliro, receipt of a memo from Parks and Recreation Board suggesting that the Town Board authorize a Turf Management Program, to be funded by all sports leagues.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, authorization for the Supervisor to execute Release of Easement and Bill of Sale for unused water tank and equipment at 99 Business Park Drive, subject to permissive referendum.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Councilman D'Angelo moved, seconded by Councilman Schiliro, receipt of letter from Tax Receiver Colombo regarding Small Claims Assessment Review Settlement and the Board approved a refund of \$542.81 to Jane Grimeh, 47 Wrights Mill Road, Armonk, Parcel I.D.: 2-03-46.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

Councilman DiDonato Roth moved, seconded by Councilman Schiliro, to ratify the service agreement with Suburban Carting for collection of bagged leaves for one week, commencing October 22, 2012 at a cost of \$6,000.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden

Noes: None

The agreement with Jay Fain & Associates regarding supervision of drawdown release of North Lake was not acted upon.

The resignation from Andrea Grenadier, hourly consultant for electronic communications development, effective October 31, 2012, was accepted on the duly adopted motion of Councilman D'Angelo.

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, approval of assignment of new street address as follows:

<u>Section, Block Lot #</u>	<u>Address</u>
Section 2, Block 17, Lot 4.G	10 Sterling Road South (Existing)
Section 2, Block 17, Lot 4G01	12 Sterling Road South (New)

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Weaver

Noes: None

The Town Board audited and approved payments totaling \$23,739,535.78 as indicated on Warrant #18.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 10:10 p.m. in memory of residents Colleen Anne Henderson and William Rosa, and Ralph Rufino, father-in-law of George Zastenchik, Highway Dept.

Anne Curran, Town Clerk

Dated: November 9, 2012

PUBLIC HEARING
October 24, 2012

At 7:50 p.m. Supervisor Arden reconvened the Public Hearing which was adjourned from October 10, 2012 for the purpose of considering proposed zoning amendments to the NB Nursery Business Zoning District to allow for less restrictive and additional uses in the District. Changes include, but are not limited to, permitting additional seating associated with an accessory cafe, allowing an increase in size of an accessory cafe, increasing the hours of operation of an accessory cafe, permitting the sale of home furnishings and accessories and allowing indoor social functions.

Additional documents and correspondence received since October 10, 2012:

Revised Negative Declaration from the Planning Board dated October 12, 2012 was marked Exhibit "J" for the record.

Correspondence of opposition to the petition from the following were marked "Exhibit "K" for the record:

- Letter from Ree Shultz, President, The North Castle Historical Society, dated October 19, 2012, which expressed concerns that requests for a special use permit and zoning changes for the property in the NB Zoning District would adversely impact services at St. Stephen's Episcopal Church, nearby residents and the Bedford Road Historic District; and encouraged the Town Board to protect the Historic District.
- Letter from Charlene Jacobi, President, Concerned Citizens of Armonk, dated October 24, 2012, which was read aloud by Town Clerk Anne Curran, stated that the Town Board has responsibility to determine if the location of the site and the nature and intensity of the catering operations would be in harmony with its neighbors. Concerns were expressed regarding the catering proposal's impacts on the Historic District, the Commercial Business District and the character of the downtown; with additional vehicle traffic adding stress to road and parking system.

P. Daniel Hollis, Shamberg Marwell Davis & Hollis, appeared before the Board on behalf of the applicant, Mark Real Estate, LLC, with respect to its property located at 45 Bedford Road, known as Mariani Gardens. Mr. Hollis said the applicant is requesting amendments to the NB zoning district for its property which is the only property in the Nursery District. The proposed amendments would allow for the expansion of the existing café from 1,000 square feet to 1,600 square feet, with an increase from 16 to 32 seats; remove the prohibition against take-out, waiter/waitress service, social functions, and the sale of alcohol; expand the permissible hours of operation and the home furnishings permitted to be sold; and remove the owner-operated requirement.

Rob Aiello, civil engineer, John Meyer Consulting, PC, displayed the site plan and said the existing structures, pavement areas and driveway would remain unchanged. The property currently has 125 parking spaces and 18 land banked parking spaces. Mr. Aiello reviewed the

proposed modifications to the site plan and said the social functions would either take place in the expanded café or in two greenhouse portions of the garden market building whose areas would total 8,500 square feet. With regard to valet parking, there would be an area at the rear of the property where 46 cars could be stored during valet operations. Mr. Aiello reviewed the route for valet parking drop off and pick up. He said events of 50 or fewer attendees would be self-parking; events of 51 to 100 attendees would have all uses on the property remain open with full valet parking service; and events over 100 attendees would require all on-site businesses to be closed with the exception of the café, with valet parking in effect. He added that the proposed plan was presented to the Town's traffic consultant who reviewed the application as well as the traffic study they submitted.

Mr. Hollis said the project has received a negative declaration under the State Environmental Quality Review Act (SEQRA) from the Planning Board, the Lead Agency, which has determined that the zoning amendments would produce no significant adverse environmental impact. He said the Town Board's approval of the amendments would permit the site plan to be reviewed by the Planning Board. Mr. Hollis said the proposal has been revised in response to concerns expressed; retail functions have been reduced and outdoor social functions have been eliminated. He said the health, safety and welfare issues have been addressed by the Planning Board; and the traffic and noise concerns have been addressed.

Mr. Hollis introduced Dr. Schnitta to present information regarding sound concerns.

Dr. Bonnie Schnitta, SoundSense, LLC, PhD in Signal Processing which is the mathematical modeling of signals and noise, or sound as it travels, said the first goal of the evaluation was to determine whether or not sound would be a disturbance, as well as to determine whether or not sound would meet code. Dr. Schnitta demonstrated that sound in a quiet room measures at 44 decibels. She explained that the daytime goal for code for is 65 decibels which is the sound of people speaking or cars going by, while the sound close to the road is about 75 decibels, with a truck at about 80 to 85 decibels. Dr. Schnitta said when sound was blasted within the existing greenhouse it was measured at 44 decibels at the nearest boundary line. In response to a query from Councilman Schiliro whether measurements were taken when the doors were open, Dr. Schnitta said it was decided this would be addressed as part of the planning since the location of the doors may change. She said the issue could be easily addressed.

The following people read letters and spoke in opposition to the proposed zoning amendments. Highlights of their comments follow.

Reverend Joshua Condon, Rector of St. Stephen's Episcopal Church, expressed concern about the large social functions proposed and the impact of noise, traffic and enforcement of zoning restrictions on both the church members and the Town. Father Condon said once the zoning changes were made they could not be overturned and the requests of the applicant come at the expense of the Town unnecessarily. He submitted a written protest petition dated October 24, 2012.

Clifford Davis, counsel for St. Stephen's Episcopal Church, said the applicant's counsel and the applicant have not said why the proposed amendments are good for the community. Mr. Davis said that the Town Board has the power to determine if it is good for the community and to protect the community. He said the applicant made a previous zoning application which the predecessor Board granted to be very restrictive about the use of the property. Mr. Davis said has not seen any evidence why the changes now being requested should be made. He read his letter to the Town Board dated October 24, 2012. In conclusion, he said the application is not consistent with the Town's Comprehensive Plan.

Sarah Condon, who is married to the Rector of St. Stephen's Church, read a letter as representative of all the clergy families, expressing concerns about the project's impact on community services which the church provides.

Meg Curry Gregg, Mead Road, member of St. Stephen's Church, read her letter of opposition which urged the Town Board to see that the proposal with ensuing traffic congestion and amplified music would have a negative impact on the historic area.

Ed Woodyard read the letter (listed as in above correspondence) from Ree Shultz, President, North Castle Historical Society.

William Kraft said he found it unconscionable that the applicant would request a zoning change.

Christine Eggleton, Landmarks Preservation Committee member, read a letter from Susan Shimer, Chairman, LPC, dated July 20, 2012 which stated that pursuant to the Landmarks Preservation Ordinance, the Committee has an obligation to comment on the impact of the proposed plan upon the adjacent Historic District and to “safeguard the Town’s historic, aesthetic and cultural heritage”. The letter concluded that “the proposed amendments and site development plan, if approved, would result in increased traffic and noise, both detrimental to the viability of the Historic District”.

Rich Fontaine, St. Stephen’s Church vestry member, said the he has not heard how social functions will benefit the community. Mr. Fontaine said it is the Town Board responsibility to serve all the residents, not only an individual property owner, and urged the Board to defer any zoning actions until the Comprehensive Plan is updated.

Neil Baumann and Mari-Anne Baumann, St. Stephen’s Church members, appeared before the Board. Mr. Baumann read their letter which detailed opposition to the proposed zoning changes and addressed the language in the proposed law, its enforcement, environmental impact not covered by SEQRA, and the Town Comprehensive Plan and spot zoning. The letter stated that, “St. Stephen’s has never been an obstacle to common sense development in our community. We did not oppose the last changes on the Mariani property when the café was added. We worked with the Town Board and developers on both Armonk Square plans and were satisfied with the final result. With Armonk Square we knew all along that the majority of that property was already zoned CB. This application is completely different. This is the first time that St. Stephen’s has objected to any development in our community. And as you have heard from Rev. Condon, our Church wants Mr. Mariani to succeed and we stand ready to discuss other possibilities such as middle income housing or a full service restaurant occupying all of the greenhouses and café, with special event restrictions.”

Charity Lunder, St. Stephen’s Church vestry member, read her letter which expressed concerns regarding how any official limits of amplified music will be measured and enforced during social events. She emphasized that the use of the property for large social events would be a severe disruption to Church services and atmosphere of the entire area.

The following people spoke in support of the proposed amendments. Highlights of their comments follow.

Alana Adler, Banksville Road, said that many of the concerns regarding noise and traffic impacts from the Mariani Gardens proposal would also apply to the Armonk Square project. She said consideration should be given to the high taxes paid by Mariani Gardens.

Norma Hill, Wampus Close, said there are other events and activities in Town which result in noise to surrounding neighbors including events in Wampus Brook Park; and she asked the Board to objectively consider this in light of the Mariani application.

In response to a query from Mr. Hollis as to when the public hearing would be reconvened, Supervisor Arden said the date has not been determined, but the Town would be contacting him regarding the application.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman Di Donato Roth moved, seconded by Councilman Schiliro, that the Public Hearing be adjourned at 9:10 p.m.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D’Angelo, Supervisor Arden.

Noes: None.

Anne Curran, Town Clerk

November 20, 2012

PUBLIC HEARING
October 24, 2012

At 9:10 p.m. Supervisor Arden stated that a Public Hearing would be held in accordance with the Public Notice that follows:

NOTICE IS HEREBY GIVEN THAT the North Castle Town Board will hold a Public Hearing on October 24, 2012, at 7:30 PM, or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY 10504, for the purpose of considering the adoption of a Local Law to amend the Code of the Town of North Castle, Chapter 196 entitled "Vehicle and Traffic," Article III, Section 196-22 and Article VI, Section 196-53 (Schedule XIII) to establish "No Parking Any Time" zones on the south side of Bedford Road from its intersection with Maple Avenue in an easterly direction to its terminus and on the north side of Bedford Road from Maple Avenue in an easterly direction to MacDonald Avenue.

The proposed local law is available in the Town Clerk's office during regular business hours and on the Town website. ALL PERSONS HAVING AN INTEREST IN THE MATTER ARE INVITED TO ATTEND AND BE HEARD.

By Order of the Town Board
Anne Curran, Town Clerk
Dated: October 13, 2012
Armonk, NY

The Public Notice was marked Exhibit "A" for the record.

The Affidavit of Posting calling the Public Hearing was marked Exhibit "B" for the record.

The Affidavit of Publication from The Journal News calling the Public Hearing was marked Exhibit "C" for the record.

Report from Lieutenant Peter Simonsen dated October 9, 2012, which was read aloud by Town Clerk Anne Curran, was marked Exhibit "D" for the record. The report states that the Police Department continues to receive complaints and concerns about parking on Bedford Road in the vicinity of 135 Bedford Road.

Letter from Elaina Garone received October 24, 2012, which was read aloud by Town Clerk Curran, was marked Exhibit "E" for the record.

Proposed local law.

Director of Planning Adam Kaufman said a site visit was conducted and the Police Department recommended the changes detailed in the proposed local law.

Robert Dean, MacDonald Avenue, said he was speaking as a property owner, business owner and commercial landlord, and that the changes being proposed would have a negative impact on businesses in this section of Town. Mr. Dean requested a parking and traffic study be conducted to obtain statistical information, not only observational information. He said he may be in favor of parking restrictions on some sections of the road following an evaluation; and he asked if any state owned property would be affected by the proposed changes.

Roderick Green, Bedford Road, said he was not in favor of permitting parking. Mr. Green expressed concern regarding overnight parking on the circle at the dead end east of MacDonald Avenue and asked if the proposed changes would prohibit parking there. Mr. Dean said this section of the road was needed for overflow parking from MacDonald Avenue. In response to a query from Councilman Cronin, Mr. Kaufman said the Police Department recommendation did include no parking east of MacDonald Avenue based on the existing roadway width.

Norma Hill, Wampus Close, said if a traffic study is being considered, she recommended it include the entire length of Bedford Road from the dead end to Main Street.

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Following discussion by the Board, it was agreed the matter would be further reviewed with the Police Department to determine if parking could be permitted in certain sections of the road at specific hours during the week and on the weekend.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded by Councilman DiDonato Roth, that the Public Hearing be adjourned at 9:35 p.m.

The roll call vote was as follows:

Ayes: Councilmen Schiliro, DiDonato Roth, Cronin, D'Angelo, Supervisor Arden.

Noes: None.

Anne Curran, Town Clerk

November 26, 2012