

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
September 25, 2013

The meeting was called to order at 6:00 p.m. at 15 Bedford Road on the duly adopted motion of Councilman D'Angelo and immediately adjourned into executive session. Four Town Board members (Councilman DiDonato Roth did not attend), the Town Attorney and Town Administrator 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. and the following persons were present:

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

Recreation Supervisor, Matt Trainor, presented a Recreation and Parks Update that included the following topics:

- The lease renewal for the multi-purpose sports bubble at Community Park has been completed and generates \$1.0M in additional revenue over the current contract.
- Summer Camps were very successful; highest enrollment and revenue in last 8 years.
- Winkler Park renovation is near completion.
- On-line program registration is expected to be available soon.
- Wampus Brook Park South proposed clean-up and plantings.
- Overview of Bike Path – Phase I.
- New turf field will not be pursued due to cost; two new potential fields are being studied.
- Miller House Restoration: Proposed to County to relocate to Town owned Fountain Park.
- Ongoing maintenance and repairs.
- Project funding realized from reduced and seasonal staff and increased recreation subdivision fees.

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, approval of the minutes from the September 11, 2013 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 8:00 p.m. follow at the end of these minutes.

Town Clerk Curran provided an update on the new Town website, launched in February, 2013. Citing the much improved quality and functionality of the site, she recognized Deputy Clerk Barbara Pesquera's efforts in coordinating with all Town Departments to identify suggestions, improvements and enhancements. With the objective to improve access to information and to expand e-communications, Ms. Curran said that a Town Facebook page was developed in June by Alex Katz, a BHHS intern and has been further enhanced. Alison Simon, Coordinator of E-Communications, presented the Town Facebook page and demonstrated how events, and community resources and notifications, such as the NIXLE emergency alert system are automatically shared via Facebook users.

The following is an excerpt from a letter from Ira Schulman, President, Byram Hills Board of Education, regarding enrollment and impact of development to Byram Hills Central School District Budget, read aloud by the Town Clerk:

“Byram Hills Board of Education requests that the following letter be read into the record at the next Town Council meeting. Thank you in advance for your consideration.

As part of the recent discourse about development in the Town of North Castle, there have been questions about the possible impact on the schools, particularly with regard to enrollment. In an effort to provide some clarity, the Board of Education and Superintendent want to provide some up-to-date information on our enrollment status. In doing so, it is important that the school district's role in such matters remains clear to all. As previously stated, it is not appropriate for the District to offer advice to the Town of North Castle or its residents about any proposed development or assessment valuations, as the requisite expertise and legal authority to make those judgments are outside of our purview. Our role is to make sure that the school district continues to provide the high quality education expected by our community and which contributes to maintaining high property values. In keeping with the approach articulated above, the district recognizes that providing information about our current enrollment status is of value to the discussion. The economic downturn in 2008, combined with the soft housing market, has contributed to a gradual decline in enrollment. Our professional demographic study does not predict increased enrollments during the next five to ten years. Therefore, at the present time, we have sufficient capacity to accommodate new students at the elementary and middle schools level without requiring construction of additional school facilities."

We also recognize that new development may create additional assessments that increase the local tax base. However, these taxes do not flow directly to the school district, and result in no automatic increased revenue stream to the school district's budget. In fact, we anticipate that any increase in assessments would be returned to the taxpayers. As such, we take no position on the impact of development to the school district's budget."

Based upon recommendation of the Planning Board, Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, approval of reduction of the performance bond for the Massaro Subdivision from the present value of \$295,000 to \$73,750, a sum equal to 25% of the original estimate.

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, approval of request from North White Plains Fire Co. #1, Inc., for the renewal of its Special Use Permit to sell Christmas trees during the 2013 holiday season.

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, approval of requests for holiday displays on Town property from November 26, 2013 through January 6, 2014 as follows:

- 1) A crèche at the peninsula between North Broadway and Route 22 in North White Plains.
- 2) A star and crescent in Wampus Brook Park
- 3) A crèche at Wampus Brook Park

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, approval of Filming License Application from Warner Brothers TV to film at 21 Whippoorwill Road on two dates per month (to be determined) from the beginning of October through March 2014, subject to Police Dept. review, acceptance of certificates of insurance, and payment of permit fees.

The roll call vote was as follows:

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

Noes: None

Pursuant to a letter from Tax Receiver Colombo regarding a 2012 Consent Judgment for White Willow, LLC, 1503 Old Orchard Street, N White Plains, NY 10604, Parcel I. D. 3-07-27.A, Councilman DiDonato

Roth moved, seconded by Councilman D'Angelo, authorization to issue a refund in the amount of \$1,023.95.

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 town's attorneys to execute the Stipulation of Settlement and Consent Judgment in the matter of Joron Associates vs. Town of North Castle, Index No. 66996-12 et al.

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, approval of the following budget items:

- Budget amendment request from Administrator Goldberg to increase NYS DOT Consolidated Highway Improvement Program (CHIPS) allotment to \$182,815.88.
- Budget transfers from Comptroller Berland that follow at the end of these minutes

The roll call vote was as follows:

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

Noes: None

Councilman Cronin described the request to honor Soccer Coach Mike Jones, who was tragically murdered last year in New York City. Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, approval of the location of the memorial stone and planting of a tree in Community Park, near the soccer field. The memorial dedication organized by soccer parents and funded by private donations will be October 14, 2013.

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, approval for Town Administrator to go out for bids for clearing of trees and removal of stumps at Wampus Brook Park South.

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, approval of funding for renovation of two paddle courts at Community Park for a total cost of \$13,990.

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 sign the renewal agreement with Armonk Indoor Sports Center for the ten-year period September 1, 2014 through August 31, 2024.

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, the consensus agenda as follows:

- Receipt of Verizon FIOS franchise fee payment for 2nd quarter 2013 in the amount of \$28,130.63.
- Approval of request from General Foreman Norris for release of bonds as follows:
 - o Arrow Blacktop – Permit 0811 in the amount of \$500 for driveway alteration at 39 Hickory Kingdom, Section 1, Block 05, Lot 31.-1.
 - o William Craft – Permit 0806 in the amount of \$500 for driveway alteration at 9 Rosehill Drive, Section 2, Block 05, Lot 20-E.
 - o Pools of Perfection – Permit 0789 in the amount of \$500 for driveway alteration at 1 Musket Court, Section 1, Block 02, Lot 2.-15.

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- Calvin Cassara – Permit 0798 in the amount of \$500 for driveway alteration at 8 Finch Lane, Section 1, Block 01, Lot 9.-6.
- Allison Miller – Permit 0805 in the amount of \$500 for driveway alteration at 84 Cedar Hill Road, Section 1, Block 02, Lot 6.C-26.
- Cross County Asphalt – Permit 0810 in the amount of \$500 for driveway alteration at 5 Hunter Avenue, Section 2, Block 13, Lot 40.A.
- Ratification of Filming License Application to Aaron Dworetzky, DBA Penny the Film, for a one-day shoot at Community Park on September 22, 2013.

The roll call vote was as follows:

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

Noes: None

The Town Board audited and approved payments totaling \$14,354,012.18 as indicated on Warrant #17.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 10:27 p.m. in memory of residents Leonard Schlichting, Sr., Angelina Aloï, Douglas Millett and William Frank.

Anne Curran, Town Clerk

Dated: September 30, 2013

Budget Transfers Sep 25, 2013

General Fund from:			General Fund to:			
A.1230.0443	Prof Dues	(95.00)	A.1230.0441	Prof Ed	95.00	
A.1310.0441	Prof Ed	(435.00)	A.1310.0432	Cont Prof Svc	435.00	
A.1330.0411	Supplies	(355.00)	A.1330.0432	Cont Prof Svc	355.00	
A.1330.0840	Health Ins	(7,148.00)	A.1330.0840.0001	Retiree Health	7,148.00	2013 New retiree Joined in 2013
A.7020.0840	Health Ins	(8,212.00)	A.1220.0840	Health Ins	8,212.00	
A.7020.0840	Health Ins	(2,556.00)	A.1220.0840.0001	Retiree Health	2,556.00	
A.3120.0411	Supplies	(29.00)	A.3120.0420	Insurance	29.00	
A.3120.0411	Supplies	(200.00)	A.3120.0443	Dues	200.00	
A.1620.0840	Health Ins	(3,070.00)	A.3620.0840.0001	Health Ins	3,070.00	
A.1620.0840	Health Ins	(19,152.00)	A.3620.0840	Health Ins	19,152.00	Replace sewage pumps, Lombardi & Hergenhan 2013 New retirees Toilet leak, Hergenhan
A.7110.0110	Salaries	(4,000.00)	A.7110.0432	Cont Prof Svc	4,000.00	
A.7110.0840	Health Ins	(6,800.00)	A.7110.0840.0001	Retiree Health	6,800.00	
A.7111.0432	Cont Prof Svc	(300.00)	A.7111.0451.0101	Utility Water	300.00	
A.8020.0411	Supplies	(109.00)	A.8020.0443	Prof Exp Dues	109.00	
Highway from:			Highway to:			
DA.5140.0110	Salaries	(20,000.00)	DA.5140.0120	Sal Part Time	20,000.00	
DA.5110.0110	Salaries	(5,300.00)	DA.1440.0434.2	Pavement Mgmt	5,300.00	
Library from:			Library to:			
L.7410.0410.0012.0002	Books	(100.00)	L.7410.0413.0012.0002	Periodicals	100.00	
L.7410.0410.0012.0002	Books	(2,000.00)	L.7410.0415.0012	Other serials	2,000.00	
L.7410.0410.0012.0002	Books	(500.00)	L.7410.0410.0012.0003	Books - Adult	500.00	

PUBLIC HEARING
September 25, 2013

At 8:00 p.m. Supervisor Arden reconvened the Public Hearing, which was adjourned from September 11, 2013, at Town Hall, 15 Bedford Road, Armonk, New York, 10504, for the purpose of considering a local

law to amend the Zoning Code of the Town of North Castle concerning three parcels of land located on Old Mount Kisco Road, Armonk, New York (Section 2, Block 12, Lot 2.-1, 2.-2, and 3), with respect to the definition of senior housing and the calculation of middle income units in the R-MF-SCH Zoning District, the mapping of the R-MF-SCH Zoning District to Petitioner's property, and establishment of bulk and area requirements.

The proposed Local Law is available in the Town Clerk's office during regular business hours. All persons having an interest in the matter are invited to attend and be heard.

By Order of the Town Board
Anne Curran, Town Clerk

Dated: August 28, 2013
Armonk, NY

The following correspondence was received since September 11, 2013.

Conditioned Negative Declaration adopted by the Planning Board on September 23, 2013 was marked Exhibit "F" for the record.

Letter from Director of Planning Adam Kaufman to Town Board dated September 24, 2013 with Planning Board positive recommendations was marked Exhibit "G" for the record.

A letter from Anthony Veneziano, Veneziano & Associates, attorney for the applicant, Frank Madonna, Jr., dated September 25, 2013 was distributed to the Town Board at the Public Hearing.

Mr. Veneziano recapped the project which proposes to develop 14 fee simple town house units, each approximately 1400 to 1900 square feet, including two units previously proposed as Middle Income Units (MIUs). The two units have been designated as affordable housing units based on the recommendations of the County Planning Board and the Town's Planning Board for compliance with federal requirements and the County affordable housing plan. The twelve market rate units are age targeted, with master bedrooms on the first floor, with a current age restriction of age 62. Mr. Veneziano said they are requesting the age restriction be modified to age 55. He said the access is now off of Route 128, which does impact a small part of the wetland buffer, but he said everyone seems to prefer this access.

Mr. Veneziano said many issues have been addressed with the Planning Board. He said the Town had requested the project not exceed the 1,800 gallons per day (gdp) allocated as of right for six homes. He said they have proved out to 1,750 gpd to the satisfaction of the Town engineer. He referenced the Conditioned Negative Declaration adopted by the Planning Board and cited several reasons supporting its determination. He read the condition attached to the Negative Declaration which states that "The Town of North Castle Town Board shall determine that sufficient capacity exists at the Sewer District No. 2 wastewater treatment plant for the Proposed Action or the Town Board Board shall adopt a plan demonstrating how the Sewer District No. 2 wastewater treatment plan can be expanded so that adequate sewer capacity can be provided for the Proposed Action." Mr. Veneziano explained that because a Conditioned Negative Declaration was adopted there is a procedural hold by law on any action by the Town Board at this time; and the matter could not be voted on by the Board until its first meeting in November.

Mr. Veneziano cited the Planning Board's recommendations that the Town Board map the RMF-SCH zone to the property; amend the definition of Senior Citizen Housing to reduce the age from 62 to 55; and require AFFH units in place of the currently required MIU units in the RMF-SCH zone. He said the County wrote a letter dated August 27, 2013 which supported these recommendations.

In response to a query from Supervisor Arden if the two affordable housing units would be senior housing units, Town Attorney Roland Baroni said the units would be AFFH units; they must be marketed in accordance with the County requirements; and the Town could not mandate they be senior housing units.

With regard to the concerns of the neighbors regarding the costs, finances and exposure, Mr. Veneziano referenced his letter dated September 25, 2013 regarding the petitioner's intention to amend his petition to include eight additional properties located along Old Mount Kisco Road into the Sewer District. Mr. Veneziano said the petitioner has agreed to the following:

1. Installation of the sewer main in Old Mount Kisco Road;
2. Bond all improvements;

3. Install the sewer laterals to those neighboring property who have signed the sewer petition;
4. Enter a construction easement with those property owners;
5. Indemnify and insure those property whom he will connect to the sewer;
6. After installation of the laterals, return the neighbors' property to its present condition.

Mr. Veneziano said his office is planning to send a certified mailing to the neighbors including a revised sewer petition, and a request to meet with them to discuss the petition, the required construction easement, and any other issues the neighbors would like addressed regarding their connections to the new sewer main. If the required number of property owners signs the petition, the amended petition will be submitted and the applicant will proceed cognizant of work on the Sewer Treatment Plant upgrades. If the required number of property owners does not sign the petition, the applicant will proceed with the current petition.

The following residents of Old Mount Kisco Road spoke about the proposed project and proposed changes to the zoning code.

Christine Eggleton questioned why the age restriction would be lowered to age 55. Referencing the public hearings held in 2006, Ms. Eggleton said that Town's senior housing was initially proposed for age 65 and lowered to age 62 to align with HUD requirements. She asked if any residents, including spouses and children, could be under age 55 or if all residents must be 55. She cited several articles about developers asking for further modifications in age restrictions. Ms. Eggleton expressed concerns about the project density in the R-MF-SCH Zoning District. She said the water and sewer estimates may not be accurate and the age restriction should not be modified. With regard to the estimated 125 gdp per unit, Ms. Eggleton said this amount is usually for a one bedroom unit, but some of the units have two bedrooms. She said the public notice regarding the hearing addressed MIUs, not affordable units, and a proposed law referencing the affordable units is currently not available.

Craig Useted expressed concern regarding the change from MIUs to affordable housing units which he said might affect the ability to sell the market rate units. Mr. Useted asked about costs to owners for sewer hookup and buy in fees which he said were not clear at this time. In response to his question whether the properties coming into the sewer district would be reassessed, Town Attorney Baroni said there is no reassessment for property owners who come into a special district. Mr. Baroni said that going forward the property owners would have special district taxes which are share of operations and maintenance (O&M) and share of capital expense, and if there is a buy in fee it would go backward.

Jim Mucker asked for clarification regarding the number acres proposed for development and the acres of unusable land, and expressed concerns regarding wetlands, wildlife and trees. Mr. Veneziano confirmed that the area of concern was not being developed.

Aji Palappillil asked about the other properties not included in the eight properties proposed to be hooked up and the costs to the other residents. Mr. Veneziano said the terminus of the extension is based on costs. In response to a query from Councilman Cronin if the homeowners not included are bound to hook in, Mr. Baroni said if they wanted to hook in perhaps the Town would bond the improvements and the owners would pay over twenty years to recapture the fees.

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 8:34 p.m., and further moved that the Public Hearing be reconvened at the November 6, 2013 meeting.

The roll call was as follows:

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

Noes: None.

Anne Curran, Town Clerk

Dated: October 3, 2013

PUBLIC HEARING
September 25, 2013

At 8:35 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 September 25, 2013 at 7:30 PM, or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, NY 10504, for the purpose of considering the Special Use Permit Application of Banmonk Realty LLC for the operation of outdoor nursery sales. The property is located at 23 Bedford Banksville Road, Bedford, NY (Section 1, Block 11, Lot 9.C24-A) in the Town of North Castle, and known on the North Castle Tax Maps as 102.04-1-9 and located within the CB-B Zoning District.

The special use permit application is available in the Town Clerk's office during regular business hours. ALL PERSONS HAVING AN INTEREST IN THE MATTER ARE INVITED TO ATTEND AND BE HEARD.

By Order of the Town Board
Anne Curran, Town Clerk

Dated: September 10, 2013
Armonk, NY

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

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

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

Letter from Director of Planning Adam Kaufman to Town Board dated September 24, 2013 regarding positive recommendation from the Planning Board was marked Exhibit "D" for the record.

The green cards denoting receipt of certified mail of Notice of Public Hearing by adjoining property owners.

The Special Use Permit Resolution for approval.

Bob Roth, John Meyer Consulting, PC, appeared before the Board on behalf of the applicant, Banmonk Realty. Mr. Roth said the subject property of 9.5 acres, located on the west side of Bedford Banksville Road, is presently has a 5,000 square foot vacant building. The property is being used for an outdoor wholesale nursery, for the storage of specimen trees and shrubs during the months of April to November. Mr. Roth said the business has been operating under a market license regularly granted by the Town Board over the past several years. In 2012, the Board determined that the zoning in the Central Business (CB-B) district should be amended so this use would be permitted via a special permit and subject to Planning Board site plan review. He said the site plan has been submitted to the Planning Board and a public hearing before this Board will be scheduled.

There are no changes or buildings being proposed at the site. Mr. Roth said they are not aware of any nuisance or traffic generated by the wholesale business. There is one employee on the property, a few parking spaces and equipment to move the trees and shrubs around. The property owner is marketing the building through a new real estate broker, who will be looking for an appropriate tenant within the CB-B district.

Mr. Roth said the Planning Board adopted a positive recommendation on September 24, 2013 for the Special Use Permit and cited the six proofs associated with that positive recommendation.

In response to a query from Councilman DiDonato Roth if sidewalks or landscaping are being planned at the site, and if there were any plans to improve the building, Mr. Roth said the trees remain when the business closes for the winter and provide attractiveness for the streetscape. He said the applicant is agreeable to the installation of a sidewalk at such time when the applicant has a plan for the building. He said when a use is identified, the owner will work with the Architectural Review Board and Zoning Board of Appeals on the sidewalk plans. In response to Councilman DiDonato Roth's query regarding whether there will be an expansion of the General Business use and if there will be any production activities at the site, Mr. Roth said this GB use will remain separate and there will not be any production activities.

Supervisor Arden thanked the applicant for working to upgrade Banksville. Mr. Arden recommended the resolution be amended to include a condition that the Planning Board, during site plan review, shall determine when sidewalks and landscaping along the property frontage should be installed.

After all persons were heard who desired to be heard, Councilman D’Angelo moved, seconded by Councilman Schiliro, that the Public Hearing be closed at 8:50 p.m.

The roll call was as follows:

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

Noes: None.

Councilman D’Angelo moved, seconded by Councilman Schiliro, the approval of the Special Use Permit application of Banmonk Realty LLC, as amended, for the operation of outdoor nursery sales.

The roll call vote was as follows:

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

Noes: None

The resolution follows at the end of these minutes.

Anne Curran, Town Clerk

Dated: October 7, 2013

R E S O L U T I O N

Action:	Special Use Permit Approval for a Nursery
Application Name:	23 Bedford Banksville Road Nursery
Applicant/Owner:	Banmonk Realty, LLC
Zone:	CB-B Zoning District
Location:	23 Bedford Banksville Road
Date of Approval:	September 25, 2013
Expiration Date:	September 25, 2014 (1 year)

WHEREAS, the Town of North Castle Town Board has received a special use permit application for the establishment of a nursery on the subject property; and

WHEREAS, nurseries are permitted in the CB-B Zoning District via a Town Board Special Use Permit and Planning Board site plan approval.

WHEREAS, on September 23, 2013, the Planning Board reviewed and discussed the project and positively recommended that the Town Board consider the proposed special use permit (5-0 vote); and

WHEREAS, the application for special use permit was referred to the Westchester County Planning Board pursuant to Section 239 L, M and N of the New York State General Municipal Law and Section 277.61 of the County Administrative Code on July 16, 2013; and

WHEREAS, the proposed nursery is located within previously developed portions of the site and no new physical improvements are proposed as part of the application; and

WHEREAS, a duly advertised public hearing on said application was conducted on September 25, 2013, at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, § 213-30 of the North Castle Code establishes certain general standards for all special permit uses; and

WHEREAS, in order for the Town Board to approve a special use permit, the Town Board must find that all of the conditions and standards have been met; and

WHEREAS, pursuant to § 213-30(A) of the Town Code, in order to grant a special permit, the Town Board must find that “the location and size of the use, the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly

development of the district in which it is located and that it complies with all special requirements for such use established in” the Town Code; and

WHEREAS, the subject property is located within the CB-B Zoning District; and

WHEREAS, within close proximity are several commercial and municipal uses. The proposed use would appear to be compatible with surrounding uses as well as other permitted uses in the CB-B Zoning District; and

WHEREAS, the proposed use would be compatible with surrounding uses as well as other permitted uses in the CB-B Zoning District; and

WHEREAS, the Town Board, based upon its review of the entire record, finds that the location and size of the use, the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located and that it complies with all requirements for such use established in the Town Code; and

WHEREAS, pursuant to § 213-30(B) of the Town Code, the second criteria for the issuance of a special permit is that “the location, nature and height of buildings, walls, fences and the nature and extent of existing or proposed plantings on the site are such that the use will not hinder or discourage the appropriate development and use of the adjacent land and buildings;” and

WHEREAS, new construction is not proposed as part of the requested special permit; and

WHEREAS, the location, nature and height of buildings, walls, fences and the nature and extent of existing or proposed plantings on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings since no new construction is proposed; and

WHEREAS, the Town Board, based upon its review of the entire record finds that the location, nature and height of buildings, walls, fences and the nature and extent of existing or proposed plantings on the site are such that the use will not hinder or discourage the appropriate development and use of the adjacent land and buildings; and

WHEREAS, pursuant to § 213-30(C), the third requirement for the issuance of a special permit is that “operations in connection with any special permit use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristics than would be the operations of any permitted uses not requiring a special permit;” and

WHEREAS, the proposed nursery will not generate any significant amount of noise, fumes or vibrations; and

WHEREAS, the Town Board, based upon its review of the entire record finds that the operations in connection with this special permit use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristics than would be the operations of any permitted uses not requiring a special permit; and

WHEREAS, pursuant to § 213-30(D) of the Town Code, the Town Board, in order to grant a special permit, must find that “parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum convenience and safety;” and

WHEREAS, the number of off-street parking spaces on the site will remain the same. The Applicant has submitted a parking analysis demonstrating that adequate parking has been provided for the proposed use of the site; and

WHEREAS, the existing number of off-street parking spaces on the site complies with the minimum off-street parking requirement; and

WHEREAS, the Town Board, based upon its review of the entire record finds that the proposed parking areas are of adequate size for the proposed use, properly located and suitably screened from adjoining

residential uses, and the entrance and exit driveways are laid out so as to achieve maximum convenience and safety; and

WHEREAS, pursuant to § 213-30(E) of the Town Code, the fourth criteria for the issuance of a special permit is compliance “where required, [with] the provisions of the Town Flood Hazard Ordinance;” and

WHEREAS, no new development is proposed within the floodplain; and

WHEREAS, the Town Board, based upon its review of the entire record finds that new development is not proposed within the floodplain; and

WHEREAS, pursuant to § 213-30(F), it is required that “the Town Board finds that the proposed special permit use will not have a significant adverse effect on the environment;” and

WHEREAS, in order for the Town Board to approve a special use permit, the Town Board must find that all of the conditions and standards have been met; and

WHEREAS, the Proposed Action would be classified as a Type II Action pursuant to SEQRA; and

WHEREAS, Type II Actions are those actions which have been found categorically to not have significant adverse impacts on the environment; and

NOW THEREFORE BE IT RESOLVED, that this special permit shall be deemed to authorize only the particular use of uses specified in the permit and shall expire if work is not initiated within one year from the date of issue, or if said use or uses shall cease for more than one year for any reason or if all required improvements are not completed within two years from the date of issue or if all such required improvements are not maintained and all conditions and standards complied with throughout the duration of the use; and

BE IT FURTHER RESOLVED, that the special permit be, and it hereby is, approved, subject to the conditions set forth below:

Conditions:

1. The Planning Board shall consider whether sidewalks and landscaping along the property frontage shall be installed with the current site plan or should be deferred to a future time.
2. Compliance with all applicable local laws and ordinances of the Town of North Castle.