

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
July 22, 2020

The Town Board meeting was online via web conference due to the Coronavirus (COVID-19) pandemic. The meeting was called to order at 5:00 p.m. and immediately adjourned to an Executive Session. All Town Board members, the Town Attorney, and the Town Administrator were present for the Executive Session. The Executive Session adjourned to a Work Session at 6:37 p.m. Supervisor Schiliro, Councilman DiGiacinto, Councilman Reiter, and Councilman Berra, the Town Attorney, the Town Administrator, and the Town Clerk were present for the Work Session. Councilman Hussain recused himself from the Work Session. The regular meeting reconvened at 7:43 p.m. and the following persons were present:

Present: Supervisor: Michael Schiliro
 Councilman: Barbara DiGiacinto
 Councilman: Barry Reiter
 Councilman: José Berra
 Councilman: Saleem Hussain
 Town Clerk: Alison Simon
 Town Attorney: Roland A. Baroni
 Town Administrator: Kevin Hay

The Supervisor dedicated the meeting in memory of Christina “Christy” Saltstein, resident and co-founder of Stayin’ Alive Charity which supports the First Responders of Northern Westchester.

Councilman: Barry Reiter moved, seconded by Councilman: Barbara DiGiacinto, approval of Town Board Minutes: July 8, 2020.
Vote- Unanimous

Regarding BTDT Properties LLC, (Kirk Scuderi), 18 Carolyn Place, Armonk, Councilman: Barbara DiGiacinto moved, seconded by Councilman: Barry Reiter, on the recommendation from the Planning Board, the release of the Wetland Mitigation Bond in the amount of \$10,000.
Vote- Unanimous

Councilman: Barry Reiter moved, seconded by Councilman: Barbara DiGiacinto, receipt of a memo from Kellard Sessions Consulting, dated July 14, 2020 regarding review of Final Environmental Impact Statement (FEIS) for Eagle Ridge, 3 North Castle Drive, Armonk.

Councilman Hussain recused himself from the vote.

The roll call vote was as follows:

Ayes: Supervisor: Michael Schiliro, Councilman: Barbara DiGiacinto,
 Councilman: Barry Reiter, Councilman: José Berra

Noes: None

Abstained: Councilman: Saleem Hussain

Councilman: José Berra moved, seconded by Councilman: Barbara DiGiacinto, approval of Payment Application No. 6 to Pat Kearns, Electric, Ltd. in the amount of \$89,590.42 for Water & Sewer SCADA Project, and authorization for the Supervisor to sign the payment application.
Vote- Unanimous

Councilman: Barry Reiter moved, seconded by Councilman: Saleem Hussain, approval of request from the North Castle Public Library to bid for the Elevator Project at the North Castle Public Library, Armonk.
Vote- Unanimous

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Councilman: Barry Reiter moved, seconded by Councilman: Saleem Hussain, receipt of 2nd Quarter 2020 Revenue/Expense Budget Reports and Bank Reconciliations.

Vote- Unanimous

Councilman: Barry Reiter moved, seconded by Councilman: José Berra, receipt of Notice of NYS liquor license application for Venice Pizza and Trattoria, 731 North Broadway, North White Plains.

Vote- Unanimous

Regarding Permit Regulations for Special Temporary Outdoor Gym/Small Group Instruction in North Castle, the Town Board took the following actions:

Councilman: Barry Reiter moved, seconded by Councilman: José Berra, receipt of Short Environmental Assessment Form (EAF) Parts 1, 2 & 3.

Vote- Unanimous

Councilman: José Berra moved, seconded by Councilman: Saleem Hussain, adoption of Negative Declaration.

Vote- Unanimous

Councilman: José Berra moved, seconded by Councilman: Barry Reiter, adoption of Resolution, as amended.

The Resolution follows at the end of these Minutes.

Vote- Unanimous

Councilman: Barry Reiter moved, seconded by Councilman: José Berra, approval of a salary increase for Stephanie Hartwell-Mandella, Assistant Library Director II, effective January 1, 2020.

Vote- Unanimous

Councilman: Barry Reiter moved, seconded by Councilman: Saleem Hussain, approval of Consensus Agenda as follows:

- Audit and approval of payments in the amount of \$808,851.94 on Warrant # 14, dated July 22, 2020.
- Receipt of North Castle Fire District No. 2 Annual Financial Information and Operating Data, and Independent Auditor's Report for Fiscal Year ended December 31, 2019.
- Release of Highway Bonds:
 - American Bldg. Technologies – Permit 1061 for curb cut at 22 Evergreen Row in the amount of \$750.

Vote- Unanimous

After all persons were heard who desired to be heard, the Supervisor closed the regular meeting at 8:52 p.m. in memory of residents Anna Marie Galtieri and Christina "Christy" Saltstein.

Alison Simon, Town Clerk

Dated: July 30, 2020

RESOLUTION

Action: Special Temporary Outdoor Gym/Small Group Instruction Permit Regulations
Date of Approval: July 22, 2020

WHEREAS, outdoor, low-risk recreational activities and businesses that provide them are currently allowed in New York pursuant to Executive Order 202.36 from Gov. Andrew Cuomo; and

WHEREAS, the activities and businesses have been allowed in any region that has met the requirements to begin the first phase of the state's reopening plan, according to the order; and

WHEREAS, given the desire of the Town Board to support local businesses and for the wellbeing of residents, the Town Board must quickly enact these regulations; and

WHEREAS, the following provisions shall be enacted until November 1, 2020 or until 5 days after full indoor occupancy of gyms and small group instruction is permitted, whichever is sooner:

Special Temporary Outdoor Gym/Small Group Instruction Permit Regulations

Purpose.

The outdoor gym/small group instruction regulations as established in these temporary regulations are designed to allow outdoor gym/small group instruction on private property in locations where they are determined to be appropriate by the Building Inspector and to promote and protect the public health, safety and general welfare.

Definitions.

For purposes of these regulations, the following terms shall have the following meanings:

OUTDOOR GYM/SMALL GROUP INSTRUCTION AREA

An outdoor gym/small group instruction area located on any portion of the property of a gym or small group instruction establishment.

Permit required.

- A. No person shall engage in the operation of an outdoor gym/small group instruction area except upon the granting of a permit therefor by the Building Inspector pursuant to these regulations and in accordance with the terms and conditions of such permit.
- B. Rules and regulations. The Building Inspector is hereby authorized to grant revocable permits for the use of an outdoor gym/small group instruction area upon the following terms and conditions:
 - (1) The permit shall be valid only until November 1, 2020 or until full indoor occupancy is permitted, whichever is sooner.
 - (2) No outdoor gym/small group instruction area may be operated except:
 - (a) As an accessory use to a gym or small group instruction use lawfully operating on the premises.

- (b) On the side or rear of the principal place of business of such entity, so long as the outdoor gym/small group instruction area is located on the same property as the principal place of business. In addition, an outdoor gym/small group instruction area shall be permitted to be extended to directly contiguous property, if included as part of a single facility and if permitted by the adjacent property owner.
 - (c) By the entity which operates the gym or small group instruction business.
 - (d) The size of the outdoor gym/small group instruction area shall not exceed the total size of the indoor gym/small group instruction premises to which the outdoor gym/small group instruction area is accessory.
 - (e) Outdoor gym/small group instruction areas shall be permitted to be established in existing required off-street parking facilities up to an area consisting of 50% of the area of the off-street parking facility.
- (3) No outdoor gym/small group instruction area shall operate prior to 7:00 am or after 8:00 pm.
 - (4) Furnishing of an outdoor gym/small group instruction area shall consist solely of readily removable mats, equipment, etc, (together, "furnishings") of a design, type, size and color approved by the Building Inspector, and all of which shall be uniform in style, color and material.
 - (5) No furnishings may be permanently affixed. The permittee shall be responsible for any damage caused to any public property as a result of the permittee's operations under these regulations.
 - (6) Signage shall be limited to small, nonilluminated identification signs attached to the physical barrier or base wall of the outdoor gym/small group instruction area. Said signage shall not exceed four square feet in area.
 - (7) Outdoor gym/small group instruction area, the property on which they are located and the surrounding area shall at all times be kept free and clear of litter and debris.
 - (8) An outdoor gym/small group instruction area shall be delineated by a removable physical barrier or base wall no larger than 30 inches in height, separating users from traffic. Acceptable delineators shall be paneled flower boxes, flower box posts and chains, wrought iron fencing, wooden fencing, picket fencing (with blunt pickets) and posts and chains.
 - (9) The permittee shall dispose of all refuse and shall recycle appropriate materials in accordance with its designated and customary place of disposal and shall have the affirmative obligation to maintain the outdoor gym/small group instruction area and surrounding premises free of litter at all times. Permittees may maintain receptacles for the disposal of waste and recyclable materials on the property in a design, type, size and color approved by the Building Inspector. Permittees shall not use Town receptacles for disposal of garbage or recyclable material.
 - (10) The permittee shall have the consent of the owner and lessee, if any, of the premises on which the permitted activity is to be conducted.
 - (11) No outdoor lighting shall be permitted.
 - (12) Music or voice amplification shall be permitted, but not when such sound is discernible outside the property in which the use is conducted.
 - (13) Operation of an outdoor gym/small group instruction area shall not adversely impact adjacent or nearby residential, religious, educational or commercial properties and shall be in accordance with all applicable codes and regulations.
 - (14) Gyms and small group instruction businesses located next to each other, without intervening uses or entranceways to buildings, may have outdoor gym/small group instruction areas that abut each other.

- (15) The permittee shall at all times maintain free and clear from all obstruction an aisle not less than four feet in width, providing access to any establishment fronting on a sidewalk.
- (16) The outdoor gym/small group instruction area shall not interfere with access to any public service facility.

Application. Application for a permit pursuant to these regulations shall be made on a form designed by the Building Inspector. Such form shall contain at least the following information:

- (1) The name and address of the permittee.
- (2) The proposed site for the activity.
- (3) A site plan showing the following:
 - (a) A proposed layout.
 - (b) The size of the existing facility and size of the proposed outdoor gym/small group instruction area.
 - (c) A statement of the months, days and hours of intended operation.
 - (d) The permittee's entire property and adjacent properties on a location map with streets for a distance of at least 25 feet, at a scale of one inch equals 10 feet.
 - (e) A plan at a scale of 1/2 inch equals one foot, showing the design and location of all furnishings.

Approval or disapproval of application.

The Building Inspector shall grant or deny an application for a permit pursuant to these regulations within 30 days of its complete submission.

Notice of violation; revocation or suspension of license; hearing; administrative sanctions.

Upon a finding by the Building Inspector that the applicant has violated any provision of these regulations or the terms and conditions of the permit or has engaged in any practice in conjunction with the regulated activity which constitutes a danger to the health or safety of any patron or pedestrian, the Building Inspector shall give notice to the applicant to correct such violation or cease such practice within 24 hours. If the applicant fails to comply with such notice, the Building Inspector may suspend the permit for a period not in excess of 30 days, during which time the applicant shall be entitled to a hearing, at which the permittee may be represented by counsel, to present evidence in his behalf and confront the evidence against him. If, upon considering the evidence presented at the hearing, the Building Inspector adheres to the finding, the Building Inspector may reinstate the permit with additional conditions related to the violation or improper practice which has been found or revoke the permit. In addition to, or in substitution for, the suspension or revocation of the permit, the Building Inspector may impose an administrative sanction in an amount determined by him to be the cost to the Town of the applicant's failure to comply with the terms of these regulations or the permit issued to the applicant pursuant hereto. The suspension, revocation or other action taken pursuant to this section shall not relieve the applicant or any other person from any liability which may be imposed.

Reservation of rights by Town.

Neither the adoption of these regulations nor the granting of any permit pursuant hereto shall be construed as a waiver of any right, privilege or immunity of the Town of North Castle concerning its public easement over the streets and sidewalks, or of any requirement of law concerning the liability of the Town of North Castle with respect to streets and sidewalks, whether expressed or implied.

Indemnification.

The applicant shall agree, on a form approved by the Town Attorney, to indemnify and save harmless the Town of North Castle, its officers, agents, attorneys and employees, from and against any claim of loss, liability or damage by any person arising as a result of the applicant's operation of the outdoor gym/small group instruction area.

Insurance.

The applicant shall obtain, and maintain in full force and effect throughout the term of the permit, at its sole expense and on its own behalf, a policy of general liability insurance, and furnish to the Town of North Castle certificates of insurance in accordance with the Town's minimum insurance requirements, together with an indemnification and hold-harmless agreement. Should it be determined that the extent of the operations in any particular case require insurance coverage in greater amounts than the Town's minimum insurance requirements, the applicant shall provide certificates of insurance in the requested amounts. Said insurance policy shall contain a provision prohibiting its cancellation except upon a minimum of 10 days' notice to the Town of North Castle. The applicant shall file with the Town Board, prior to the issuance of the permit, a certificate evidencing the requisite insurance and setting forth the actual cancellation notice provision contained in the policy.

Penalties for offenses.

Any person who shall violate any of the provisions of these regulations shall be liable to prosecution in the Town Justice Court and shall, upon conviction thereof, be liable to a fine that shall not exceed \$500. If a fine imposed pursuant to these regulations or resulting from the maintenance, use or operation of an outdoor gym/small group instruction area is not paid within five business days after the fine is imposed, except as otherwise ordered by the Court, the Town may immediately revoke the permit for any such permittee.

Fee.

A fee in connection with the review of all outdoor gym/small group instruction area permit applications shall not be charged.

Additional Safety Provisions.

- (1) All employees must wear masks at all times
- (2) All participants/customers/members must wear masks
- (3) Outdoor gym/small group instruction areas shall not extend into pedestrian pathways and shall be located a minimum of 6 feet from such pathways.
- (4) All gym/small group instruction areas shall comply with NY Governor Executive Orders, Dept. of Health regulations, and CDC guidelines/orders

WHEREAS, on July 22, 2020 , the Town Board reviewed and discussed the proposed temporary outdoor gym/small group instruction area permit regulations and all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, the Town Board adopted a Negative Declaration on July 22, 2020;

NOW THEREFORE BE IT RESOLVED, that above special temporary gym/small group instruction area regulations shall be in force only until November 1, 2020 or until full indoor occupancy is permitted, whichever is sooner.