

Town Board Minutes
Town of North Castle
North Castle Community Center
10 Clove Road
No. White Plains, New York
on
July 9, 2014

The meeting was called to order at Town Hall at 5:00 p.m. on the duly adopted motion of Councilman D'Angelo and immediately adjourned to an executive session in Town Hall. All Town Board members, the Town Attorney and the Town Administrator were present for the executive session which adjourned to a work session at 6:10 p.m. at the North Castle Community Center in North White Plains. The regular meeting reconvened at 7:35 p.m.

Supervisor	Michael J. Schiliro
Councilmen:	Stephen D'Angelo
	Barbara DiGiacinto
	Barry Reiter
	José Berra

Town Clerk	Anne Curran
Town Attorney	Roland A. Baroni
Town Administrator	Joan Goldberg

The minutes of the Public Hearing which commenced at 8:00 p.m. follow at the end of these minutes.

The minutes of the June 25, 2014 regular meeting and June 26, 2014 special meeting were approved on the duly adopted motion of Councilman Reiter.

Vote: Unanimous.

Pursuant to requests from Chief of Police Simonsen, Councilman D'Angelo moved, seconded by Councilman Reiter, approval of the following promotions within the Police Department:

- Sergeant Dennis Murray to Detective Sergeant, effective July 12, 2014
- Detective Thomas McCormack to Police Sergeant, effective July 12, 2014
- Officer Douglas Gellard to Police Sergeant, effective July 12, 2014

Vote: Unanimous

Regarding the Water District #2 Distribution System Replacement, Councilman D'Angelo moved, seconded by Councilman Berra, adoption of the Negative Declaration; the following supporting Resolution was also adopted on Councilman D'Angelo's motion.

RESOLUTION WITH REFERENCE TO THE
TOWN OF NORTH CASTLE WATER DISTRICT NO. 2
STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)
NEGATIVE DECLARATION

Whereas, the Town Board of the Town of North Castle is proposing a Water District No. 2 Distribution System Replacement; and

Whereas, pursuant to Article 8 of the Environmental Conservation Law and the regulations contained in 6 NYCRR Part 617, hereafter SEQRA, the Town Board had determined this action to be treated as an Unlisted Action; and

Whereas, this action is taken after careful consideration of all possible impacts that this action might have on air, water, and natural resources, and all other natural and manmade environments in or around the Town of North Castle; and the Town Board has set forth such consideration on forms on file in the Town Clerk's Office.

Now, Therefore, be it resolved as follows:

1. The Town Board of the Town of North Castle hereby determines that the Water District No. 2 Distribution System Replacement will have no significant effect on the environment, and hereby issues a Negative Declaration.

2. The Town Clerk shall maintain a file of this determination in the permanent records of the Town of North Castle, make the same available for public inspection, and notify all involved agencies as required by law.

Dated: July 9, 2014

Vote: Unanimous

Dennis Noskin, architect representing World Mission Society Church of God along with leadership of the Church explained their plans to occupy 6,250 square feet on the first floor of a 31,350 square foot office building at 901 North Broadway, at the intersection of Washington Place, in North White Plains. This use would require a Special Use Permit in a CB (Central Business) Zoning District. Several residents objected to the proposed use of this building due to traffic impacts on North Broadway and Washington Avenue. Members of the Town Board commented that they would like the applicant to review traffic impacts and Supervisor Schiliro said that he would like to get information from the applicant regarding other examples where Churches have opened in buildings that required change of use, as a way to assess how these establishments have worked out in other locations.

Councilman DiGiacinto moved, seconded by Councilman D'Angelo, receipt of Special Use Permit application from World Mission Society Church of God to occupy the first floor of office building at 901 North Broadway, further moved to schedule a Public Hearing on September 10, 2014, and further requested that the applicant submit a traffic study for Town Board review.

Vote: Unanimous

Pursuant to a recommendation from Director of Water and Sewer Misiti, Councilman Berra moved, seconded by Councilman D'Angelo, approval to reject single bid from Peak Enterprises regarding rehabilitation of windmills in Water District No. 2, and further moved approval to re-bid the project.

Vote: Unanimous

Pursuant to a request from the Communications Committee, Councilman D'Angelo moved, seconded by Councilman DiGiacinto, approval of refurbishment and the expenditure of \$825 for a new billboard type sign for the kiosk structure at the entrance to Wampus Brook Park, near the Hergenhan building. It was noted that the sign will promote events in the park and that Sam Morell designed the graphic for the sign which will be produced by Everett Studios in Armonk.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Reiter, authorization for the Supervisor to sign engagement letters with Environmental Capital regarding: 1) Advisement concerning the bond issuance for Water District No. 2 Distribution System Replacement, at a cost of \$15,000, and 2) Continuing Disclosure/Due Diligence Services, at prescribed hourly rates.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Berra, ratification of the appointment of Kimberly Barbieri to Personnel Manager, part time, up to 17 hours per week, effective June 30, 2014.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Reiter, adoption of the 2014 Standard Work Day and Reporting Resolution for elected and appointed officials, as required by NYSLRS.

Vote: Unanimous

Councilman Berra moved, seconded by Councilman D'Angelo, ratification of title change for Marianne Bischoff to Senior Accountant, part time, up to 17 hours per week, effective May 15, 2014.

Vote: Unanimous

Councilman DiGiacinto moved, seconded by Councilman Reiter, acknowledgment of the resignation of John Naclerio from the Library Board.

Vote: Unanimous

Councilman D'Angelo moved, seconded by Councilman Berra, termination of agreement with Michael Richardson for Labor Consulting Services, effective July 9, 2014.

Vote: Unanimous

Councilman Berra moved, seconded by Councilman D'Angelo, the consensus agenda as follows:

- Receipt of the Town Clerk's monthly report for June, 2014
- Approval of the request from General Foreman Norris for the release of the following bond: Henderson – Permit 0819 in the amount of \$500 for driveway alteration at 19 Nichols Road, Section 2, Block 16, Lot 17.-68

Vote: Unanimous

The Town Board audited and approved payments totaling \$179,271.33 as indicated on Warrant #13.

After all persons were heard who desired to be heard, the Supervisor adjourned the regular meeting at 9:35 p.m. in memory of Patricia Coombs, resident, and Dorothy Stipo, mother of Lori Zawacki, Building Department; and the Town Board reconvened to an Executive Session. The Executive Session closed at 11:15 p.m.

Anne Curran, Town Clerk

Dated: July 21, 2014

PUBLIC HEARING

July 9, 2014

At 8:00 p.m. Supervisor Schiliro 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 July 9, 2014 at 7:30 PM, or as soon thereafter, at North Castle Community Center, 10 Clove Road, North White Plains, NY, 10603 for the purpose of considering the Special Use Permit Application of *The Edge of Dance* to establish a 4,724 square foot dance studio. The property is located at 7 North Greenwich Road, Armonk, NY (Section 2, Block 16, Lot 13B) and located within the PBO 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: June 26, 2014
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 Kristen Jones and Dante DiFabrizio, owners of The Edge of Dance, received May 23, 2014 was marked Exhibit "D" for the record.

Numerous letters from Edge of Dance students and parents of students received June 11, 2014 were marked Exhibit "E" for the record.

Application for Special Use Permit dated June 20, 2014 was marked Exhibit "F" for the record.

Letter from Director of Planning, Adam Kaufman dated June 24, 2014 regarding positive recommendation from the Planning Board was marked Exhibit “G” for the record.

Letter from Westchester County Planning Board dated June 16, 2014 stating that the action was a matter for local determination was marked Exhibit “H” for the record.

Certified mail receipts denoting mailing to adjacent property owners were marked Exhibit “I” for the record.

Email from Arthur and Virginia Gressel dated July 2, 2014 was marked Exhibit “J” for the record. The email was read aloud by Town Clerk, Anne Curran, as requested by the senders who could not attend the meeting.

Short Environmental Assessment Form.

Negative Declaration for consideration.

Proposed Resolution of approval of Special Use Permit.

Dodie Mouldovan, Douglas Elliman Real Estate, read an email from Arthur and Virginia Gressel dated July 2, 2014. Ms. Mouldovan expressed her opposition to permitting uses other than business and professional offices in the PBO Zoning District. She said the dance studio use would devalue residential properties and the subject property was not an ideal location for this type of operation.

Councilman DiGiacinto said she is in support of the application, adding that she does not take zoning issues lightly. Referencing the large amount of vacant office space throughout the country and in Town, Ms. DiGiacinto said the Town has been flexible because it had to be. She cited The Gym and The Bristol Assisted Living which have been permitted to operate in the business park. She said the application will not have a negative impact because the hours of operation will be from 4 p.m. until approximately 10 p.m. and the majority of dance students are younger children who will be dropped off by parents rather than drive to the studio. This should result in a lower impact than previous use as a medical office with cars arriving and departing throughout the day.

Michelle Choi, North Greenwich Road, expressed opposition to the application, citing concerns with more traffic, safety at the intersection, and the number of potential dance students. In response to Ms. Choi’s queries, Dante DiFabrizio said on average there would be 10 to 15 students dancing in the two smaller studios and slightly more students in the larger one. Classes would be held from 4 p.m. to 9 p.m. with students arriving at staggered times. Mr. DiFabrizio said they are not looking to have a large volume of students. He said at their current location, in Mount Kisco, younger students are usually dropped off by parents in car pools and typically two to three parking spaces are used. He added that the dance studio staff commute from the city and are picked up from the train station. In response to a query from Councilman DiGiacinto, Mr. DiFabrizio said the studio is closed in the summer.

In response to a query from Supervisor Schiliro, Director of Planning Adam Kaufman said that the property has the required number of parking spaces.

Ed Woodyard commented that the medical office building which previously occupied the building had to provide parking for staff.

Mario Ruggiero expressed support of the dance studio in Armonk.

Lisa Szczesniak, of Evergreen Row, stated that as a former student and now instructor at Edge of Dance, she sees that most parents car pool and do not park at the facility.

Supervisor Schiliro said he had concerns about the impact of the use when the process started. Mr. Schiliro said the zoning change adopted at the last meeting has special requirements, including that a fine arts instruction school be located in a single tenanted building. He spoke about the challenge for municipalities to repurpose properties and cited the changes in use at Kaysal Court and Banksville Avenue. Mr. Schiliro cited his own experience as his home is next door to a dance studio and he said there were not any problems with regard to parking.

Town Attorney Roland Baroni reiterated that the adoption of the zoning change by the Town Board at its recent public hearing permits this use within the PBO Zoning District.

In response to a query from Councilman DiGiacinto, Director of Planning Adam Kaufman confirmed that fine arts education facilities are permitted within all industrial zoning districts.

Councilman D'Angelo said that the Town has a need to fill office space and he supports this use.

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded by Councilman Berra, that the Public Hearing be closed at 8:42 p.m.

The roll call vote was as follows:

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

Noes: None

Councilman DiGiacinto moved, seconded by Councilman D'Angelo, that based upon review of the Environmental Assessment Form and all other materials, it has been determined that there will be no significant adverse environmental impact and the Town Board hereby adopts a Negative Declaration.

The roll call vote was as follows:

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

Noes: None

Councilman DiGiacinto moved, seconded by Councilman D'Angelo, approval of the Special Use Permit application of *The Edge of Dance* to establish a 4,724 square foot dance studio at the property located at 7 North Greenwich Road, Armonk, NY (Section 2, Block 16, Lot 13B) and located within the PBO Zoning District, conditioned upon receipt of authorization to pursue the special permit from the property owner no later than July 31, 2014. The Resolution follows at the end of these minutes.

The roll call vote was as follows:

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

Noes: None

Anne Curran, Town Clerk

Dated: July 21, 2014

RESOLUTION

Action:	Special Use Permit Approval for a Fine Arts Instruction School
Application Name:	Edge of Dance
Applicant:	Dante DiFabrizio
Owner:	White Plains Hospital
Zone:	PBO Zoning District
Location:	7 North Greenwich Road
Date of Approval:	July 9, 2014
Expiration Date:	July 9, 2015 (1 year)

WHEREAS, the Town of North Castle Town Board has received a special use permit application for the establishment of a Fine Arts Instruction School; and

WHEREAS, Edge of Dance is an organization offering dance instruction to children; and

WHEREAS, the Applicant is proposing to utilize the entire 4,724 square foot building for the Fine Arts Instruction School; and

WHEREAS, the property is located on NYS Route 22 and NYS Route 433 within the PBO Zoning District; and

WHEREAS, a Fine Arts Instruction School requires the issuance of a special use permit by the Town Board; and

WHEREAS, on June 23, 2014, 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 June 24, 2014; and

WHEREAS, the proposed development will occur on a lot that is currently utilized as an office; and

WHEREAS, the Proposed Action does not require any new exterior construction; and

WHEREAS, a duly advertised public hearing on said application was conducted on July 9, 2014, 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 PBO Zoning District; and

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

WHEREAS, the proposed use would be compatible with surrounding uses as well as other permitted uses in the PBO 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 exterior 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 Fine Arts Instruction School will not generate any 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 Fine Arts Instruction School; 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 development is proposed within the floodplain; and

WHEREAS, the Town Board, based upon its review of the entire record finds that 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, § 213-33.V of the North Castle Code establishes certain specific standards for all Fine Arts Instruction School 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 § 213-33.V(1) of the Town Code a Fine Arts Instruction School may be permitted only in single tenanted buildings; and

WHEREAS, the proposed Fine Arts Instruction School will be located within a single tenanted building; and

WHEREAS, pursuant to § 213-33.V(2) of the Town Code a Fine Arts Instruction School may be permitted only in locations fronting on a State or County Road; and

WHEREAS, NYS Route 22 and NYS Route 433 are State Roads; and

NOW THEREFORE BE IT RESOLVED, that based upon its review of the full environmental record the Town Board finds that the proposed action will not result in any significant adverse

environmental impacts and hereby adopts a Negative Declaration pursuant to the requirements of Article 8 of the New York State Environmental Quality Review Law and 6 NYCRR Part 617; and

BE IT FURTHER 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 building plans shall be forwarded to the Building Department so that they may review the plan for conformance with the NYS Building Code.
2. Compliance with all applicable local laws and ordinances of the Town of North Castle.
3. The Applicant shall submit authorization to pursue the special permit from the property owner to the satisfaction of the Town Clerk on or before July 31, 2014.