

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York
on
April 10, 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. All Town Board members, 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

Former Armonk Fire Chief Luci Labriola-Cuffe addressed the Board regarding the Town's 2012 EMS Service Awards to North Castle Police Dept, Fire Dept, Highway Dept, and individual meritorious service awards re: super storm Sandy response.

Ms. Labriola-Cuffe recalled some heroic highlights of the October 29 when Hurricane Sandy hit the area and Armonk sustained severe damage with countless trees and wires down:

- Police Officer Joseph Horesky from the North Castle Police Department Emergency Service Unit was able to get to Evergreen Row where two residents were in critical condition from a fallen tree.
- Two North Castle Highway workers Tom MacInnes, previously an EMT for over 20 years, and Robert Lombardi, currently an EMT, assisted PO Horesky (EMT) with patient care.
- Armonk FD members Ron Macellaro and Bill Wallerstein and WEMS Paramedic Monetta used an all-terrain vehicle to get to the scene and assist with the response along with additional members of the North Castle Highway Department.
- The well-coordinated efforts and medical care provided by the members of the Armonk FD/EMS, the North Castle Police Department, and the North Castle Highway Department, ensured the best possible outcome for the patients involved in the accident. Both residents have recovered.

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, approval of the minutes of the March 13, 2013 and March 20, 2013 meetings.

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 8:15 p.m. follow at the end of these minutes.

The following were received regarding Banmonk Realty Zoning petition to amend Town code to include additional permitted principal uses in CB-B zoning district:

- 1) Memo from Planning Director Kaufman regarding Planning Board positive recommendation and comments.
- 2) Letter from Westchester County Planning Board stating the matter is for local determination.

Councilman D'Angelo moved, seconded by Councilman Cronin to schedule a public hearing on May 8, 2013.

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The roll call vote was as follows:

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

Noes: None

Councilman DiDonato Roth, seconded by Councilman Schiliro, receipt of Mark Real Estate (LLC) (Mariani) revised proposed text amendments and site plan.

The roll call vote was as follows:

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

Noes: None

With regard to Mark Real Estate (LLC) (Mariani) Zone Text Amendment application, Clifford Davis, Counsel for St. Stephens Church, stated his opposition and submitted a protest petition pursuant to Town Law (265), dated April 10, 2013. Mr. Davis stated objections which he described as intense proposed uses of a catering hall/wine bar/café as a radical change of principal permitted use for the property that is inconsistent with Town Comprehensive plan. He stated the four Town Board votes would be needed to enact zoning legislation and submitted that the Town Board should reject the application.

Resident and St. Stephens Parishioner, Neal Baumann, cited multiple objections with the application and added that Mr. Mariani has an open invitation to sit down with St. Stephens and find common ground for an acceptable application that could include some of his current uses.

Town Attorney Baroni suggested that the Town Board find out what type of retail uses currently exist at Mariani Gardens with regarding to zoning code before there is discussion of a zone text amendment.

P. Daniel Hollis, attorney for Mark Real Estate (LLC) (Mariani), asked for referral to the Planning Board as a right that should be allowed to his client.

The request for Mark Real Estate (LLC) (Mariani) Zone Text Amendment referral to Planning Board was tabled on the duly adopted motion of Supervisor Arden, with the request that the Building Dept. issue a report regarding compliance before the next Town Board meeting.

An update on saving Miller House was provided through video playback of a County Board of Legislators meeting and County Government Operations Committee discussion, including: Kathleen O'Connor, Westchester County Commissioner of Parks, David DeLucia, Director of Park Facilities, Catherine Borgia, County Legislator, Chairman Gov't Operations Committee, William Ryan, County Legislator, George Oros, Chief of Staff to County Executive, Alfreda Williams, County Legislator.

Discussion pertained to the plan to disassemble the Elijah Miller House (Washington Headquarters) and move it to Fountain Park, part of the Clove Road field in North White Plains. Positive remarks about the area included:

- The 6 acre area has been graded by the Town.
- It is a wooded area which likely depicts the original surroundings of the building.
- Buses can park at the North Castle Community Center with easy walking access.

It was mentioned that once a historical site is moved it goes off the national register, but at the Fountain Park site, the house would still remain within the original Miller House farmstead and therefore could easily be put back on the National Register of Historical Sites. The estimate to move Miller house is approximately \$1 million. Councilman Schiliro suggested putting together a budget to fund the project since the Town would be taking on the property. Ed Woodyard said that a 1994 document states that maintenance responsibility for the Miller House lies with Westchester County. Supervisor Arden said there is a possibility of State funding.

Councilman Schiliro moved, seconded by Councilman DiDonato Roth, receipt of Supreme Court, Westchester County dismissal of Petition brought by Concerned Citizens of Armonk regarding CVS Project in Armonk.

The roll call vote was as follows:

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

Noes: None.

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Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, adoption of a resolution regarding an amended film permit for overnight filming for feature film shoot at 9 Leisure Farm Drive on April 18-19. Supervisor Arden mentioned that this would bring in \$10,000 to the Town: \$5,000 from filming fees (\$2,500 per day) and an additional contribution of \$5,000.
(NOTE: The permit was never issued, or fees paid, as the production was postponed indefinitely.)

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 Preliminary Draft Environmental Impact Statement regarding residences at Brynwood Golf and Country Club and improvements to golf course and other 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 D'Angelo, approval of request from Director of Sewer and Water Misiti regarding bid for replacement of two emergency generator units for Sewer District No. 3.

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 from General Foreman Norris to award bids for Catch Basins, Highway Materials, Pavement Markings and Guide Rails as follows:

AGGREGATES

Bank Run	\$25.00 per ton	Red Wing Properties, Stormville, NY
Washed Stone	3/8" \$25.00 per ton del.	Red Wing Properties, Stormville, NY
	3/4" \$24.00 per ton del.	Wingdale Materials, White Plains, NY
	1-1/4" \$24.00 per ton del.	Wingdale Materials
	1-1/2" \$24.00 per ton del.	Wingdale Materials
Trapped Rock	3/8" \$24.90 per ton del.	Thalle Industries, Fishkill, NY
	3/4" \$24.90 per ton del.	Thalle Industries
	1-1/4" \$24.90 per ton del.	Thalle Industries
	1-1/2" \$24.90 per ton del.	Thalle Industries
Shoulder Material	\$18.00 per ton del.	Putnam Materials, White Plains, NY
Screened Top Soil	\$35.00 per ton	Red Wing Properties, Stormville, NY

SKID CHAIN

Clawcross	\$494.00 per 100 ft.	Chemung Supply Corp.
Sidechain	\$244.00 per 100 ft.	Chemung Supply Corp.
J Hooks	\$ 3.47 a piece	Chemung Supply Corp.

LIQUID CALCIUM CHLORIDE \$1.06 per gallon Peckham Materials, Athens, NY

PRECAST CONCRETE STRUCTURES (Catch Basins)

30"X48" CATCH BASIN STRUCTURE WITH FOUR (4) KNOCKOUTS		
1CB-NS3	3' DEPTH WITHOUT SUMP	Chemung Supply Corp. \$359.00
1CB-S3	3' DEPTH WITH SUMP	Chemung Supply Corp. \$359.00
1CB-NS4	4' DEPTH WITHOUT SUMP	Chemung Supply Corp. \$470.00

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1CB-S4	4' DEPTH WITH SUMP	Chemung Supply Corp. \$470.00
1CB-NS5	5' DEPTH WITHOUT SUMP	Chemung Supply Corp. \$564.00
1CB-S5	5' DEPTH WITH SUMP	Chemung Supply Corp. \$564.00
1CB-NS6	6' DEPTH WITHOUT SUMP	Chemung Supply Corp. \$682.00
1CB-S6	6' DEPTH WITH SUMP	Chemung Supply Corp. \$682.00
FRAMES AND GRATES		Chemung Supply Corp. \$518.00
ALTERNATE FRAMES AND GRATES		Chemung Supply Corp. \$534.00

1D1 30"x30" DRAIN INLET WITH FOUR (4) KNOCKOUTS		
1DI-NS3	3' DEPTH WITHOUT SUMP	Chemung Supply Corp. \$289.00
1DI-S3	3' DEPTH WITH SUMP	Chemung Supply Corp. \$289.00
1DI-NS4	4' DEPTH WITHOUT SUMP	Chemung Supply Corp. \$378.00
1DI-S4	4' DEPTH WITH SUMP	Chemung Supply Corp. \$378.00
1DI-NS5	5' DEPTH WITHOUT SUMP	Chemung Supply Corp. \$454.00
1DI-S5	5' DEPTH WITH SUMP	Chemung Supply Corp. \$454.00
1DI-NS6	6' DEPTH WITHOUT SUMP	Chemung Supply Corp. \$518.00
1DI-S6	6' DEPTH WITH SUMP	Chemung Supply Corp. \$518.00
FRAMES AND GRATES		Chemung Supply Corp. \$324.00
ALTERNATE FRAMES AND GRATES		Chemung Supply Corp. \$349.00

HIGHWAY MATERIALS:

Peckham Materials:

403.198302M Top Course Type 7F3	\$80.00 per ton
403.178302M Top Course, Type 6F	\$83.00 per ton
714.06 Asphaltic Concrete Curb	\$74.00 per ton

Thalle Industries:

403.13 Binder, Type 3	\$73.00 per ton
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Laid In Place Asphalt:

Bilotta Construction	\$89.74 per ton
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INSTALLATION OF PAVEMENT MARKINGS ON TOWN ROADS:

			<u>TOTAL</u>
Hi-Way Safety Systems, Inc.	\$345.00	\$177.00	\$522.00
9 Rockview Way			
Rockland, MA 02370			

GUIDE RAIL INSTALLATION, sole bidder--Chemung Supply Corp.

- Galvanized corrugated beam rail 12 ft. 6 in. post spacing, installed to NYSDOT specifications.
Complete layout and installation \$21.94 per linear foot
- Galvanized corrugated beam rail, 6 ft. 3 in. post spacing, installed to NYSDOT specifications.
Complete layout and installation \$27.18 per linear foot
- Galvanized 6 in. x 6 in box beam rail, including all splice plates, hardware, etc.
Installed to NYSDOT specifications.
Using type one end sections \$39.54 per linear foot
Using type two end sections \$48.40 per linear foot
- 6 in x 6 in box beam rail shop cut and metered curve \$78.20 per linear foot

The roll call vote was as follows:

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

Noes: None

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Pursuant to letters from Tax Receiver Colombo regarding consent judgments, Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, to issue the following refunds:

- \$1,351.92 to 20 Virginia Road LLC, 20 Virginia Road, North White Plains, NY 10603, Parcel I. D. 7-03-21,
- \$8,709.03 to Townsend Center LLC, 495 Main Street, Armonk, NY 10504, Parcel I.D. 2-02-22.-C.

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 a \$50.00 donation to the NWP North Castle Beautification Committee from each of the following: AAA Emergency Supply Company, DiMuro Awards LLC, and Current Solutions Professional Engineering and Consulting, PC.

The roll call vote was as follows:

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

Noes: None

With regard to a Petition to connect Cox Avenue properties to Sewer District No. 2, Sal Misiti, Director of Water & Sewer Operations, suggested that a buy-in recapture fee be looked at with a study by a professional engineering firm. Mr. Misiti said he would draft a report with information about the current pump station and plant performance and recommendations for setting the parameters of the study to determine how remaining properties may be accommodated in the sewer district.

Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, receipt of Petition to extend Sewer District No. 2 to the Madonna property at 95-97 Cox Avenue, and further, table it pending further study and review.

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, adoption of a resolution to allow the Green Acres Garden Club to post temporary signs at specific locations to advertise their annual plant sale on May 11, 2013.

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 a one-year lease agreement with Westchester County Department of Parks, Recreation and Conservation in the amount of \$28,715 for the Fisher Lane commuter parking lot for the term April 1, 2013 through March 31, 2014.

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 a License Agreement with Savyon Development to allow him to maintain and repair a stone wall at 24 Windmill Place, Armonk.

The roll call vote was as follows:

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

Noes: None

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Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, acceptance of a proposal from Kellard Sessions Consulting regarding preparation of bid documents for refuse/recycling contract for 2014-2015, with extensions through 2018, for a fee not to exceed \$8,000.

The roll call vote was as follows:

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

Noes: None

Councilmen Cronin moved, seconded by Councilman DiDonato Roth, award of bid and authorization for the Supervisor to sign an agreement with Sport Tech Construction for resurfacing of Winkler Park and to make the following budget transfer:

Increase	A 1002	Appropriated Fund Balance	\$20,800
Increase	A 7110.432	Contractual Services	20,800

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 DiDonato Roth receipt of resignation letter from Sofia Sanchez, Intermediate Account Clerk Typist, Tax Receiver's Office, effective March 29, 2013.

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, ratification of reappointment of Lorraine Pompei, part-time Intermediate Account Clerk Typist, Tax Receiver's Office, effective April 1, 2013.

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 DiDonato Roth, ratification of \$2,000 additional funds for Marianne Bischoff, hourly support, Finance Department.

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 notice of disability retirement of Juan Cordoano, Parks Department, effective April 4, 2013.

The roll call vote was as follows:

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

Noes: None

Councilmen DiDonato Roth moved, seconded by Councilman D'Angelo, authorization of terminal leave payment for Juan Cordoano.

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, ratification of appointment of seasonal Parks Laborers: Thomas Kohany, effective March 25, 2013, and Anthony LaConte, effective March 27, 2013.

The roll call vote was as follows:

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

Noes: None

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Councilman DiDonato Roth moved, seconded by Councilman D'Angelo, receipt of resignation from Meg Curry Gregg as Chair of Road Naming Committee. Meg will remain a committee member.

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 resignation from Charity Lunder from Communications Committee effective April 5, 2013.

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 Cronin, the consensus agenda as follows:

- Release of bonds as follows:
 - Andrew Scagnelli – Permit 0770 in the amount of \$500 for driveway alteration at 11 North Lake Road, Section 1, Block 04, Lot 10.-339.
 - TJ Royal Properties – Permit 0963 in the amount of \$1,000 for street opening at 30 Old Route 22, Section 2, Block 15, Lot 1A.
- Receipt of Notice of Claim: Jeffrey Post vs. Town of North Castle and referral to Town Attorneys.
- Receipt of Summons and Complaint: Gregory Grice vs. Town of North Castle, and referral to Town Attorneys.
- Receipt of Town Clerk's monthly report for March 2013
- Westchester County Fair and Affordable Housing Settlement regarding receipt of Monitor's report on progress to comply in North Castle.

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 \$316,503.80 as indicated on Warrant #7.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 11:45 p.m. in memory of resident Charles Wuttke.

Anne Curran, Town Clerk

Dated: April 22, 2013

PUBLIC HEARING
April 10, 2013

At 8:15 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 April 10, 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 Chabad of Armonk to establish of a new place of worship, and to utilize 878 square feet for individual and small group religious education and 389 square feet for religious services at the property located at 495 Main Street, Armonk, (Section 2, Block 02, Lot 22.C).

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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: March 23, 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.

Special Use Permit Application dated February 20, 2013 was marked Exhibit "D" for the record.

Letter from Director of Planning Adam Kaufman dated February 26, 2013 was marked Exhibit "E" for the record.

Letter from Director of Planning Adam Kaufman dated March 12, 2013 regarding positive recommendation from the Planning Board was marked Exhibit "F" for the record.

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

Proposed Resolution of approval including Negative Declaration.

Councilman DiDonato Roth said she would be recusing herself due to a professional real estate association concerning the subject property.

William O'Neill, architect, appeared before the Board on behalf of the applicant. Mr. O'Neill said the applicant has received a zoning variance from the Zoning Board of Appeals which has required that the maximum occupancy be posted at the location.

Cheryl Milano, Wampus Avenue, expressed concern that having a religious organization in this location was not in the best interest of the business district. Ms. Milano said that if a religious organization is given a special use permit, it could set a precedent for other similar organizations. Her additional concerns included traffic congestion during holy days and funerals, noise from neighboring locations negatively impacting a house of worship, and if there could be a reduction in tax revenue. Director of Planning explained that this use is permitted by special permit in the Central Business (CB) District and the standards established in Town Code are included in the resolution being considered for approval by the Town Board; if the Board determines the conditions have been met, then it is obligated to issue the permit. Mr. Kaufman said the applicant has demonstrated on the site plan there is adequate parking for this use. In response to a query from Supervisor Arden, Mr. Kaufman said it has been confirmed with the Assessor that there will not be any negative tax issues resulting from issuance of the permit.

With regard to Councilman Schiliro's question at a previous meeting, whether issuance of a special permit to a place of worship would negatively impact the types of businesses which could open in the shopping center by prohibiting the issuance of a liquor license, Mr. O'Neill said the State Liquor Authority confirmed that would be the case only if the building as a whole was exclusively used as a place of worship; a place of worship located with a retail shopping center would not meet this exclusive use criteria. Councilman Schiliro said he is satisfied that the use is proper based on the review by the Planning Board and the information provided that by the State.

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 Cronin, that the Public Hearing be closed at 8:35 p.m.

The roll call was as follows:

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

Noes: None.

Abstained: Councilman DiDonato Roth

Councilman D'Angelo moved, seconded by Councilman Cronin approval of the Special Use Permit application of Chabad of Armonk, 495 Main Street, Armonk, New York 10504, (Section 2, Block 02, Lot 22C), for the establishment of a new place of worship. The Resolution follows at the end of these minutes.

The roll call vote was as follows:

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

Noes: None.

Abstained: Councilman DiDonato Roth

Anne Curran, Town Clerk

Dated: April 23, 2013

R E S O L U T I O N

Action:	Special Use Permit Approval for a Church or Other Place of Worship
Application Name:	Chabad of Armonk
Applicant:	Chabad of Armonk
Owner:	Daniel Aulicino
Zone:	CB Zoning District
Location:	495 Main Street
Date of Approval:	April 10, 2013
Expiration Date:	April 10, 2014 (1 year)

WHEREAS, the Town of North Castle Town Board has received a special use permit application for the establishment of a new place of worship; and

WHEREAS, Chabad of Armonk is a Jewish organization offering small group and individual religious education and worship services; and

WHEREAS, the Applicant is proposing to utilize 878 square feet for individual and small group instruction and 389 square feet for religious services; and

WHEREAS, the property is located on the first floor of the Townsand House in the CB Zoning District; and

WHEREAS, a Church or other place of worship requires the issuance of a special use permit by the Town Board; and

WHEREAS, on March 11, 2013, the Planning Board reviewed and discussed the project and 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 February 26, 2013; and

WHEREAS, the proposed development will occur on a lot that is currently occupied by several retail, service and office uses; and

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

WHEREAS, a duly advertised public hearing on said application was conducted on April 10, 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 Zoning District; and

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

WHEREAS, the proposed use would be compatible with surrounding uses as well as other permitted uses in the CB 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 place of worship 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 all existing and proposed uses on 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 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.H of the North Castle Code establishes certain specific standards for all churches or other places of worship 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.H(a) of the Town Code, churches or other places of worship may be permitted only in locations fronting on or having direct access to major or collector roads as determined by the Planning Board and shown on the Town Development Plan Map; and

WHEREAS, NYS Route 128 would be considered a Major Road; and

WHEREAS, the Town Board, based upon its review of the entire record finds that the proposed use is located on a Major Road; and

WHEREAS, pursuant to § 213-33.H(b) of the Town Code, building coverage, including accessory buildings, shall not exceed 20% of the lot area, nor shall the sum total of the land covered with buildings and parking area, including driveways, exceed 50% of the lot area; and

WHEREAS, the existing lot coverage on the lot exceeds 50%; and

WHEREAS, the Applicant received a variance for lot coverage from the Zoning Board of Appeals on April 4, 2013; and

WHEREAS, the Town Board, based upon its review of the entire record finds that the Applicant has demonstrated that the existing building coverage complies with the Town Code and that the Applicant has secured the necessary lot coverage variance from the Zoning Board of Appeals; and

WHEREAS, pursuant to § 213-33.H(c) of the Town Code, all new buildings shall be set back from adjoining properties in residence districts, and street lines directly opposite properties in residence districts, a distance equal to at least twice the normally applicable front yard setback requirement for detached one-family dwellings in the zoning district in which they are located, but in no case less than 50 feet. Off-street parking areas shall not be permitted in any required front yard, nor in any required side or rear yard within 20 feet of any adjoining property in a residence district. Setback requirements may be modified by the Town Board in cases of conversions of existing buildings; and

WHEREAS, several existing parking spaces are located within the front, side and rear yards; and

WHEREAS, the Town Board has the ability to modify the setback requirements since a portion of the existing building is proposed to be converted to a house of worship; and

WHEREAS, based upon its review of the entire record finds that no new building are proposed and that it would be appropriate for the Town Board to modify the setback requirements to permit the utilization of all existing parking areas located on the site; and

WHEREAS, pursuant to § 213-33.H(d) of the Town Code, a landscaped buffer area, meeting at least the minimum requirements of § 213-14M of the Town Code, shall be required along all lot lines adjoining properties in residence districts; and

WHEREAS, no modifications to the landscaping plan are proposed as part of this application; and

WHEREAS, the previously approved site plan depicted conformance with Section 213-14 M of the Town Code; and

WHEREAS, the Town Board, based upon its review of the entire record finds that the existing landscape buffer vegetation provides adequate screening; 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, the Town Board hereby modifies the setback requirements for all existing parking areas so that all existing off-street parking spaces can be utilized on the site; 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 site plan shall be forwarded to the Building Department so that they may review the plan for conformance with the NYS Building Code.
2. The Applicant shall be required to comply with all conditions of the April 4, 2013 Zoning Board of Appeals variance resolution as follows:

The owner must confirm with the Building Inspector of the Town of North Castle, the maximum number of occupants that can occupy this space.

The owner is responsible for the posting of the maximum number of occupants who can occupy this space and be considered a place of assembly.

3. Compliance with all applicable local laws and ordinances of the Town of North Castle.

PUBLIC HEARING
April 10, 2013

At 8:36 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 April 10, 2013 at 7:30 PM, or soon thereafter, at North Castle Town Hall, 15 Bedford Road, Armonk, NY 10504 to consider a local law amending Chapter 213, Zoning, of the Code of the Town of North Castle, New York, so as to add standards designed to preserve the visual character and views along three of the Town's scenic and historic roadways (East Middle Patent Road, Mianus River Road, St. Mary's Church Road) through a process of site plan review and approval by the Town Planning Board.

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: March 23, 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 Planning Director Kaufman dated February 11, 2013 was marked Exhibit "D" for the record

Email from Hope W. Levene dated March 31, 2013 was marked Exhibit "E" for the record

Letter from Jean-Paul Valles and Carol Ann Valles dated April 3, 2013 was marked Exhibit "F" for the record

Letter from Westchester County Planning Board dated April 9, 2013 stating that the proposed regulations are consistent with the County Planning Board's long-range planning policies was marked Exhibit "G" for the record.

Full Environment Assessment Form

Negative Declaration

The proposed local law.

Director of Planning Adam Kaufman said a prior version of the local law was first considered in 2005-2006 during the moratorium study, but was not adopted at that time. Mr. Kaufman said the Town Board recently decided to revisit the law and a revised draft has been prepared. He said the original law included about a dozen roads to be designated as scenic and historic; the current draft includes three roads, East Middle Patent Road, Mianus River Road and St. Mary's Church Road, all in the eastern district. Mr. Kaufman explained that the intent of the law is to place in the Code the recognition of scenic and historic roads and to acknowledge that the Town wants to preserve these roads. If adopted, the law would automatically require Planning Board site plan approval for any disturbance within 500 feet on any designated roads. Currently the Residential Project Review Committee (RPRC) reviews any proposed disturbance and determines if it should be referred to the Architectural Review Board or Planning Board for approval. Mr. Kaufman said there are no real prohibitions in the law which would provide the Planning Board with authority in its site plan review to make recommendations and to potentially require that streetscapes be preserved by common driveways, conservation subdivisions and changes to the plan in terms of grading and tree removal.

Todd Mydland, St. Mary's Church Road, said his wife Abby Simpson owns five parcels in the district which would be affected by the legislation. Mr. Mydland asked if an environmental review in connection with the legislation and a survey of the impact on property owner rights were done. Mr. Kaufman said private property rights are not typically addressed in an environmental review and the legislation would not impact private property rights because no prohibitions are being proposed. Mr. Mydland expressed his view that the first section of law addresses rights of property owners, but the Standards and Decision sections of the law do not indicate that the Planning Board would take impacts to property owners into consideration. He said the Planning

Board could decide not to allow certain changes and he questioned if the additional scrutiny could be a disincentive for owners to maintain their properties. Mr. Kaufman said the potential currently exists for Planning Board site plan approval and most changes now require additional paperwork for RPRC or Building Department approval. Mr. Mydland questioned the financial impact of transferring significant authority to the Planning Board and thought reviews of applications by Town staff would be more consistent and efficient. Mr. Kaufman said it is the intent of the law to take discretionary decisions away from the RPRC, as the Planning Board has the skills necessary to make the evaluations and therefore would be the proper authority. Mr. Kaufman said the intent is not to be prohibitive, but for the Planning Board to thoroughly review the applications and develop better solutions by working with the applicant.

Dan Richmond, Zarin and Steinmetz, spoke in favor of adoption of the proposed legislation on behalf of his client Ken Wilson who resides on Mianus River Road. Mr. Richmond said his client was in support of an additional protection, which is not currently being proposed, through the designation of Mianus River Road as a Historic District pursuant to Chapter 126 of the Town Code.

John Tiernan, East Middle Patent Road expressed support of the legislation.

Michael Frank, Mianus River Road, said he is interested in preservation, but expressed concerns with the proposed law. Mr. Frank said that the first half of North Castle's law, which he said was borrowed from a law adopted by the Town of Cortlandt adopted in 2010, addresses property rights, but the second half glosses over them. Mr. Frank said that in Cortlandt the scenic and historic district was defined based on a survey conducted by an architectural firm. He said an arbitrary boundary of 500 feet on either side of the road in North Castle's law results in unequal protection for different types of property. The standards in the law are very general and do not provide specific information to property owners and potential buyers on what is required to conform to the law and what is considered land disturbance. He expressed concern about the impact on property value and property rights. Saying that he thought the law should include specific features the Town wants to protect, Mr. Frank recommended the Town build criteria around the Master Plan and said more review of the legislation was needed.

Supervisor Arden said the Land Use Study Committee did extensive study of this issue and it has been given a great deal of consideration.

Stacy Albanese, East Middle Patent Road, President-Elect of The Bedford Historical Society, spoke in favor of the legislation and urged the Board to consider the Historic District designation.

Mr. Kaufman said creating an historic district would be more onerous. He said a change proposed on a property fronting a scenic and historic road would have to be reviewed in terms of what the owner is proposing to do. It is not possible to codify and develop hard and fast rules of what is permissible; it would need to be reviewed in the context of the road.

Chris Robbins, East Middle Patent Road, said he was in favor of preservation, but was concerned with general standards and what would be permitted in terms of making siding or roofing repairs to his property.

Ernie Gellman, East Middle Patent Road, expressed support of legislation and said subjective determination by the Planning Board was necessary. Mr. Gellman said he was not sure if 500 feet was the right distance and expressed his view that large homes which were not in character with the district should not be permitted.

Noel Meller, St. Mary's Church Road, expressed support of reasonable dialogue to balance need for development with the need for restrictions, but said he was concerned with lack of objective standards. Mr. Miller said that the rights of all current homeowners should be considered and said zoning changes and restrictions with the potential to diminish property values should not be unilaterally imposed.

Tim Lewis, Mianus River Road, spoke in favor of legislation. He would like to see the diversity of the homes in the district to be maintained.

Mr. Robbins asked if there were any studies which showed effects of legislation on property values. Mr. Kaufman said that site plan review by the Planning Board was a requirement in the

Town Board Minutes
April 10, 2013

Town several years ago for all properties. Rod Christie, Director of Mianus River Gorge Preserve, said there are studies regarding increased property values resulting from scenic and historic road designation.

Susan Shimer, Chairman of Landmarks Preservation Committee, commended Christine Eggleton for her work researching scenic and historic legislation in various jurisdictions. Chairman Shimer said that, as expressed at tonight's hearing, many people do not want their properties landmarked, but are interested in preservation.

Councilman Schiliro requested more time for a review of the legislation based on the points raised by residents at tonight's public hearing. Mr. Schiliro said the legislation should include Planning Board approval, and further review could determine that some modifications to the restrictions could be made, including a possible reduction in the number of feet of disturbance requiring review.

Supervisor Arden said the legislation was low impact and requires minor additional review compared to that which was required prior to the creation of the Residential Project Review Committee. Mr. Arden said many residents in the area have asked for this change and it was time to designate the three roads as scenic and historic.

Following further discussion among all Board members, it was agreed to adjourn the hearing for further information and research.

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 Schiliro, that the Public Hearing be adjourned at 9:55 p.m.

The roll call was as follows:

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

Noes: None.

Anne Curran, Town Clerk

Dated: May 6, 2013