

PUBLIC HEARING
September 28, 2016

At 8:54 p.m. Supervisor Schiliro said that a Public Hearing would take place in accordance with the Public Notice that follows:

NOTICE IS HEREBY GIVEN that the North Castle Town Board will hold a Public Hearing on Wednesday, September 28, 2016, at 7:30 p.m., or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, New York, 10504, to consider a local law to amend Chapter 355, Zoning, of the Town Code to create clarifying language regarding temporary tents within the Town of North Castle.

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

By Order of the Town Board
Alison Simon, Town Clerk

Dated: September 17, 2016
Armonk, New York

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.

The following letters and documents were noted as received:

Letter from Director of Planning, Adam Kaufman, dated July 8, 2016; and letter from Mr. Kaufman dated September 13, 2016 regarding positive recommendation from the Planning Board concerning the proposed amendments to the Town Code were marked Exhibit "D" for the record.

Email from Christine Eggleton dated July 11, 2016 was marked Exhibit "E" for the record.

Letter from the Westchester County Planning Board dated August 8, 2016 stating that this is a matter for local determination, was marked Exhibit "F" for the record.

The Town Clerk noted there was a Negative Declaration for consideration.

The Town Clerk noted there was a proposed Local Law for consideration.

Town Attorney Roland Baroni noted the reason for this amendment to the Local Law is a result of a local zoning summons issued due to placement of a tent without a proper permit, in that case the dictum in judge's decision indicated that, where you have outdoor seating, which is permitted fairly freely in Town, a tent should be allowed as of right. This court interpretation caused Director of Planning Adam Kaufman to amend the Zoning Code to avoid confusion.

Director of Planning Kaufman stated that the Building Department felt that, based on that Court's interpretation, if the Town Board did not take action, tents would have to conform to all zoning requirements which would essentially preclude them from being constructed.

Mr. Kaufman said that the language amending the Code is consistent with the NYS Building Code. He said that any tent that requires a building permit per the NYS Building Code would have to obtain that permit, but zoning restrictions that go along with that permit would not be applicable to tents. Specifically, there would be no need for setbacks, other than prohibiting tents from being constructed in the front yard, and there would be no additional off street parking requirements. He said that the use of the tent will have to conform with other zoning laws in the

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Town. For example, a tent cannot be erected to sell commercial goods on a property zoned for a single family home. He said, in order to use a tent for outdoor dining, it must comply with outdoor dining laws.

In answer to a question from Supervisor Schiliro, Mr. Kaufman said any structure below 64 square feet is not considered a structure under this definition. Tents between 64 and 200 square feet are not considered structures, but tents in excess of 200 square feet are considered structures.

At the request of Supervisor Schiliro, Mr. Kaufman confirmed that restaurants in Town that are currently using tents for outdoor dining will be able to continue to do so as long as they meet the requirements for the building permit and they are not located in the front yard.

Councilman D'Angelo thanked Mr. Kaufman for simplifying the law.

After all persons were heard who desired to be heard, Councilman D'Angelo moved, seconded by Councilman DiGiacinto, that the Public Hearing be closed at 9:02 p.m.

The roll call vote was as follows:

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

Noes: None

Councilman D'Angelo moved, seconded by Councilman DiGiacinto, 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 D'Angelo moved, seconded by Councilman DiGiacinto, the adoption of Local Law 6 of 2016 to amend Chapter 355, Section 355-4, Zoning, of the Town Code to amend the definition of a structure and create clarifying language regarding temporary tents within the Town of North Castle. The Local Law 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

Alison Simon, Town Clerk

Dated: October 7, 2016

TOWN OF NORTH CASTLE
Local Law No. 6 For the Year 2016
Adopted September 28, 2016

A local law to amend the definition of a structure in Section 355-4 of the Town Code.

Section 1. Amend Section 355-4 of the Town Code.

STRUCTURE

- A. Anything that is constructed or erected which requires a location on the land or attachment to something having such location, including but not limited to the following:
- (1) Signs or billboards.
 - (2) Fences over four feet or six feet in height in a front or side yard and fences over eight feet in height in a rear yard.
 - (3) Walls other than those less than four feet high.
 - (4) Radio and television antennas, except for such antennas installed on a roof of a building, which antennas shall be considered fixtures of the building.
 - (5) Pergolas, canopies, porches, patios, terraces, decks, outdoor bins, tool sheds, carports, satellite antennas, equipment and storage buildings or sheds, swimming pools, swimming pool filter pads, tennis, basketball or other similar sports courts, driveways, parking areas, doghouses or sheds.
 - (6) Tents, in excess of two hundred square feet, in total, mobile homes, trailers or similar structures on wheels or other supports used for business or living purposes. Tents shall not require site plan approval or be required to meet the minimum setback requirements for a principal or accessory structure, notwithstanding, in no case shall tents be located in the front yard. In addition, tents shall not count toward the calculation of gross land coverage, gross floor area and floor area ratio. Furthermore, tents shall not require the provision of off-street parking.
- B. A building permit shall be required prior to the construction or erection of any structure.
- C. All buildings are structures. For the purposes of setback requirements, classification of buildings as "principal" or "accessory" shall be controlling.
- D. A building permit shall not be required for anything equal to or less than 64 square feet in area and eight feet in height, and such shall not be considered a structure. Notwithstanding the foregoing, a building permit shall be required for the installation of a power generator of any size and for the installation out of doors of any other equipment which would generate audible noise at any property boundary (see § 355-15Q).
- E. For floodplain management purposes, a "structure" shall mean a walled and roofed building, including a gas or liquid storage tank, that is principally above the ground, as well as a mobile home.

Section 2. Conflicting Standards.

Where the requirements of this Local Law impose a different restriction or requirement than imposed by other sections of the Code of the Town of North Castle, the Town Law of the State of New York or other applicable rules or regulations, the requirements of this Local Law shall prevail.

Section 3. Severability.

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The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid part or parts.

Section 4. Effective Date.

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.

Dated: September 28, 2016