

Town Board Minutes
Town of North Castle
15 Bedford Road
Armonk, New York 10504

on
October 22, 2008

Supervisor Berman called the meeting to order at 5:00 p.m. and the following persons were present:

Supervisor	Reese Berman
Councilmen	Rebecca A. Kittredge
	Gerald K. Geist
	William R. Weaver
	Michael J. Schiliro
Town Clerk	Ann Leber
Town Counsel	Roland A. Baroni

The meeting was immediately adjourned into Executive Session to discuss real estate and personnel matters. The Executive Session was closed at 7: 30 p.m.

The regular meeting reconvened at 7:35 p.m.

Councilman Kittredge moved, seconded by Councilman Schiliro, approval of the minutes of the October 7, 2008 regular meeting. Councilman Geist and Councilman Weaver abstained as they were not present at that meeting.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Schiliro, Supervisor Berman.

Noes: None.

Abstentions: Councilmen Geist and Weaver.

The minutes of the Public Hearing which commenced at 7:55 p.m. follows at the end of these minutes.

Deputy Town Clerk Curran presented a report on Cable Television transmissions including the following information:

- Government programming is being transmitted from Town Hall on two new cable channels referred to as NCTV: Channel 18 for Cablevision subscribers and Channel 39 for Verizon FIOS TV subscribers.
- The Byram Hills School District will no longer air Town Board and Planning Board meetings on Cablevision Channel 20 and Verizon Channel 38 as those channels will offer 100% educational programming.
- As NCTV develops, residents should expect reliable and expanded programming including a variety of program segments addressing timely and helpful information.

Stating that Cable TV coverage for Cablevision and Verizon will continue to be tested and improved, Ms. Curran reported that Cablevision has promised equipment upgrades in order to improve audio and video quality on Channel 18. She also noted that both Cable TV providers have build-out work to complete in order to provide full coverage within the Town geography; developments regarding cable provider improvements and coverage will be announced and posted on the Town's web site.

Deputy Clerk Curran emphasized that while efforts are underway to get NCTV working properly, viewer patience during this start-up period is appreciated.

Councilman Geist urged residents to vote early on Election Day, if possible, to avoid waiting in line as large turnouts are expected at the polls, and to have absentee ballots postmarked by November 3rd.

Councilman Kittredge said there is a referendum on the ballot for North White Plains residents authorizing the Town to enter into an agreement, with the Town of Mount Pleasant, to pay a portion of the annual cost of a Service Award Program for volunteer members of the Valhalla Ambulance Corp.

Supervisor Berman made the following statement regarding the leaf pick-up program: "The highway department began vacuuming leaves this week. Please make every effort to reduce the number of leaves that you put out. Most of us can blow our leaves into the woods, can compost, or a combination of both. Although the Town is continuing its normal leaf pick-up this fall season, we may need to alter our pick up next year. A lot will depend on how the public responds to our request to reduce the leaves that are put out for vacuuming. Last year when we made a similar request, our highway department vacuumed more leaves than ever before. Please do your part to reduce the numbers of leaves you put out for vacuuming. Thank you."

Supervisor Berman made the following announcements:

- On Monday, October 27, H.C. Crittenden School will celebrate Make A Difference Day with a variety of activities including the kick-off of the Adopt MacDonald Avenue Program to keep the school grounds and MacDonald Avenue by the school free of litter. If you would like to adopt a portion of your street to keep it free of litter, please call the Supervisor's office to sign up.
- The Riggs, Lewrenz and Sardo families on Wampus Avenue are collecting non-perishable food on Halloween night for the Interfaith Food Pantry.
- North Castle Global Warming Awareness Week is October 23-30 which will include a variety of activities. There are a number of ways that residents can take action to reduce environmental impacts and save money. Consult the Town's web site www.northcastleny.com under What's New and the Green Page for more information.
- The Byram Hills PTSA is having its 1st Annual Halloween Fun/Run Walk on Sunday, October 26th beginning at the gazebo at Wampus Brook Park.
- Effective Monday, October 13, every large store in Westchester that uses plastic to bag its consumer goods was expected to have an in-house recycling program in place. Please recycle your plastic bags, and don't put them in your trash.
- National Animal Shelter Appreciation Week will be celebrated November 2-8. There are many ways residents can assist the team at Adopt-A-Dog including donating supplies, time, and money or sponsoring or adopting a pet.

Councilman Schiliro congratulated the Byram Hills High School football team and soccer team for advancing to the playoffs.

Councilman Geist moved, seconded by Councilman Weaver, to schedule a public hearing to be held on November 5, 2008 to consider a local law to amend Chapter 169 entitled "Smoking Policy" and Chapter 46 entitled "Sexual Harassment Policy".

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Kittredge moved, seconded by Councilman Geist, approval of the request of the Byram Hills PTSA to place a sign under the eagle to publicize its Family Symposium on November 5, 2008.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Weaver moved, seconded by Councilman Geist, approval of the request of the Byram Hills Preschool Association to place a sign under the eagle to publicize its Holiday Boutique and Family Fun Day on December 7, 2008.

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The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, acceptance of a donation to the North Castle Public Library in memory of Gerald Reinersman.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, approval of the request of General Foreman Useted for the release of highway bonds to Peter Zaborowsky, Permit #280, in the amount of \$750; Glenn Gunderson, Permit #660, in the amount of \$750; Belvedere Installation, Permit #2121, in the amount of \$750; Angelo DeFilippo, Permit #658, in the amount of \$500; and Bayswater Development, Permits #221, #278 and #357, in the amount of \$4,550.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, authorization for the Town's Attorneys to execute the Stipulation and Consent Judgment in the matter of Getty Petroleum Marketing - Index No. 018183/06 v. Town of North Castle.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, acceptance of a \$1,000 donation from the Armonk Outdoor Art Show, representing The Friends of the North Castle Public Library, Inc., to be used toward the purchase of recycle bins.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, receipt of the closing documentation with regard to open space acquisition, using \$180,000 of approved open space funds, of the Falzarano/Spinelli parcels located in Quarry Heights at William Street (Section 3, Block 7, Lot 15C); 8 William Street (Section 3, Block 7, Lots 15.F); and 1479 Old Orchard Road (Section 3, Block 7, Lot 16). Supervisor Berman explained that the parcels are adjacent to a small park in Quarry Heights and asked Town Clerk Leber to notify the adjacent property owners regarding the additional open space.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, receipt of the final mortgage tax update for 2008 from Finance Director Dawn Donovan. Supervisor Berman stated that the 2008 amount is much below the 2007 amount and that the Town is facing a \$488,000 shortfall.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Kittredge moved, seconded by Councilman Geist, receipt of an e-mail from Robert Dean, Naturescapes, stating he would like to participate in "Global Warming Awareness Week," October 23 - 30, 2008, by donating and installing four red maple trees to be planted on Maple Avenue and twelve honey locust trees for the renovated parking lot at Lombardi Park.

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The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Upon the recommendation of General Foreman Useted, Councilman Kittredge moved, seconded by Councilman Geist, approval of a resolution authorizing the filing of an application for a State Grant-in-Aid for a Municipal Waste Reduction and/or Recycling Project and the signing of the associated State Contract. This grant will reimburse the Town for wood chippers and trucks which were already purchased.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Upon the recommendation of Superintendent Barnard, Councilman Geist moved, seconded by Councilman Weaver, authorization for Finance Director Donovan to make payment to DeRosa Tennis, Inc. for Change Orders #1 ,2 ,3 ,4 and 5 in connection with the Lombardi Park road and parking lot improvement project in the amount of \$28,933.20.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Upon the recommendation of Superintendent Barnard, Councilman Geist moved, seconded by Councilman Weaver, authorization for Finance Director Donovan to make payment to DeRosa Tennis, Inc. for curbing, reclamation and drainage work as part of the Lombardi Park road and parking lot improvement project in the amount of \$44,745. Councilman Geist explained that the safety and integrity of the park's entranceway and road structure are being improved, and that the Town had previously bonded up to \$350,000 for the improvements. The balance of \$90,000 was paid with revenues from the Town's lease agreement with the Armonk Indoor Sports Center for the tennis bubble. Mr. Geist said that the new baseball dugouts and other improvements at Clark Field were made with funds donated by the Armonk Baseball League, and the Board thanked Commissioner Guy Mezzancello for the league's contributions to the Town. Mr. Mezzancello said that Armonk Baseball plans to continue to make improvements to Armonk facilities in cooperation with the Town.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Weaver moved, seconded by Councilman Schiliro, that the Supervisor be, and hereby is, authorized to make the budget transfers that follow at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Kittredge, authorization for the Supervisor to sign an agreement in the amount of \$1,180 with Eleven Virginia Road Realty for the lease of eleven parking spaces to be used by North Castle commuters. The term of the agreement is January 1, 2009 through December 31, 2010.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, authorization for the Supervisor to sign an agreement with SPCA of Westchester, Inc. in the amount of \$4,919,74, payable in monthly installments of \$409.96, for shelter services, effective January 1, 2009. The agreement expires December 31, 2009.

The roll call vote was as follows:

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Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Upon the recommendation of Assessor Anna Maria Marrone, Councilman Geist moved, seconded by Councilman Schiliro, authorization for the Supervisor to sign a memorandum of understanding with the County of Westchester for the renewal of Westchester County Clerk's Public Viewer for Land and Legal Records. There is no cost for this service.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, acceptance, with regret, of the resignation of Kevin Eccleston from the Parks and Recreation Advisory Board. Town Clerk Leber will send a letter of appreciation.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Geist moved, seconded by Councilman Weaver, authorization for the Supervisor to sign an agreement for the Quarry Heights Sewer Line Improvement Project under a program funded through the Westchester County Community Development Block Grant (CDBG) Program. The County amended the agreement to increase the amount from \$200,000 to \$246,500.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

Councilman Weaver moved, seconded by Councilman Schiliro, authorization for the Supervisor to sign documents for a NC4 grant application through New York State's Citizen Corps Program.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.
Noes: None.

The Town Board audited and approved payments totaling \$12,156,517.71 as indicated on Warrant #19.

After all persons were heard who desired to be heard, the Supervisor closed the meeting at 8:30 p.m. in memory of long time resident Robert Ellis and Eliza Siskin, daughter of Dana and Howard.

Ann Leber, Town Clerk

Dated: November 3, 2008

PUBLIC HEARING

October 22, 2008

At 7:55 p.m. Supervisor Berman 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 October 22, 2008, at 7:30 p.m., or as soon thereafter, at Town Hall, 15 Bedford Road, Armonk, New York 10504, for the purpose of considering the Special Use Permit application of

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Perfect Endings Bakery, 470 Main Street, Armonk, New York, for outdoor seating (Section 2, Block 13, Lot 6).

By Order of the Town Board
Ann Leber, Town Clerk

Dated: October 10, 2008
Armonk, New York

The Public Notice read by the Town Clerk 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 green cards denoting mailing to and receipt of certified mail by adjoining property owners were received and marked Exhibit "D" for the record.

Letters from Director of Planning Adam Kaufman to Town Board and Planning Board, dated September 15, 2008, to Town Board dated September 23, 2008, and to Architectural Review Board, dated October 8, 2008; notification to Westchester County Planning Board, sent on October 8, 2008; and short Environmental Assessment Form from the applicant were marked Exhibit "E" for the record.

Susan Cardillo, owner of 462 Main Street Realty Corp., location of Star Spangled Carousel, the retail business next to Perfect Endings Bakery, said she had two concerns regarding the proposed outdoor seating. Ms. Cardillo thought outdoor seating on the bakery's back deck would be fine, but that seating on each side of the entry would encourage more illegal parking on Main Street and add to the driving hazards caused by poor road visibility as vehicles exit Star Spangled Carousel's parking lot.

Ms. Cardillo said her other concern was that Perfect Endings Bakery customers often park in the Star Spangled Carousel parking lot, including illegal parking in the handicapped parking space, despite numerous signs indicating that the parking lot is reserved.

Supervisor Berman asked Ms. Cardillo if her objection to the outdoor seating was due to parking and safety issues rather than the seating itself, and Ms. Cardillo said she could not enforce the parking regulations. Supervisor Berman said it is the Town's responsibility to enforce the parking regulations and that there appeared to be a need for increased enforcement at this time.

Chris King, part owner of Perfect Endings Bakery with Elaine Cuevas, said they did not have any signs inside the bakery about where to park, but they did have a sign in the driveway, to the right of their building, indicating that the parking lot for their customers is behind their building. Ms. King said they were recently instructed to remove the sign by the daughter of Mrs. Briggs, the property owner, who informed them that the driveway is private and its narrow width made it dangerous for vehicles to enter and exit at the same time. Ms. King explained that, because the driveway that should be used to enter the parking lot is so far left of the bakery, many customers do not realize that they should access the parking lot through this driveway.

Supervisor Berman asked if there were ways to improve signage and a discussion ensued. Councilman Schiliro suggested that one parking sign be displayed in the top of the bakery window and another be displayed near the bakery register requesting that customers park behind the building only. Councilman Kittredge asked if a private driveway could be marked.

No other correspondence or comments were entered for the record.

After all persons were heard who desired to be heard, Councilman Kittredge moved, seconded by Councilman Geist, that the Public Hearing be closed at 8:03 p.m.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Kittredge moved, seconded by Councilman Geist, 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 Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Councilman Geist moved, seconded by Councilman Schiliro, approval, with the added condition regarding new signage, of the Special Use Permit application of Perfect Endings Bakery, 470 Main Street (Section 2, Block 13, Lot 6) for outdoor seating. Councilman Kittredge referred the parking enforcement matter to Lieutenant Peter Simonsen of the North Castle Police Department and Building Inspector Richard Fon.

The Resolution follows at the end of these minutes.

The roll call vote was as follows:

Ayes: Councilmen Kittredge, Geist, Weaver, Schiliro, Supervisor Berman.

Noes: None.

Ann Leber, Town Clerk

Dated: November 3, 2008

RESOLUTION

Action:	Special Use Permit Approval for Outdoor Display
Application Name:	Perfect Endings
Owner/Applicant:	M. Briggs/Kendell
Designation:	Section 2, Block 13, Lot 6 (108.01-6-19)
Zone:	CB Zoning District
Location:	470 Main Street
Date of Approval:	October 22, 2008
Expiration Date:	October 22, 2009 (1 year)

WHEREAS, an application dated April 21, 2008 for Special Use Permit approval was submitted to the Town Board and referred to the Planning Board for its review and recommendation; and

WHEREAS, the application consists of the following drawings:

- Plan labeled "Ax," entitled "Basement Power & Lighting Plans," dated August 20, 1997, prepared by Michael S. Wu, Architect.

WHEREAS, the Applicant is seeking Special Use Permit approval for the establishment of outdoor tables; and

WHEREAS, the property is located in the CB Zoning District and is designated on the Tax Maps of the Town of North Castles as Section 2, Block 13, Lot 6 (108.01-6-19); and

WHEREAS, the proposed action is a Type II Action under the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Town Board is familiar with the nature of the site and surrounding area; and

WHEREAS, the Town Board has determined that the proposed location and size of the outdoor tables, the nature and intensity of the operations involved with the outdoor tables and the size of

the table area with respect to streets giving access to it are such that table area will be in harmony with the appropriate and orderly development of the CB Zoning District; and

WHEREAS, the Town Board has determined 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 adjacent land and buildings; and

WHEREAS, the Town Board has determined that operations in connection with the special 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 Town Board has determined that parking areas are of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives are laid out so as to achieve maximum convenience and safety; and

WHEREAS, the Town Board has determined that the provisions of the Town Flood Hazard Ordinance have been met; and

WHEREAS, the Town Board has determined that the proposed special permit use will not have a significant adverse effect on the environment; and

WHEREAS, the Town Board has determined that the proposed table area would not interfere with ingress and egress by pedestrians; and

WHEREAS, the Planning Board on September 23, 2008 favorably recommended this application to the Town Board; and

WHEREAS, pursuant to Section 213-33.F of the Town Code, the Town Board finds that the proposed outdoor tables are essential to the permitted principal use; and

WHEREAS, pursuant to Section 213-33.F(1) of the Town Code, outdoor display, sales and service is not permitted to be located in any yard adjacent to or across the street from a residential district nor shall such use be located within any yard adjacent to an occupied residence located within a nonresidential district where the Town Board determines that such residence would be negatively impacted; and

WHEREAS, the property contains residential units at the rear of the property and is adjacent to a residential zoning district in the rear; however, the Town Board finds that the existing building appears to be screened well and does not appear to impact any adjacent residential dwelling; and

WHEREAS, pursuant to Section 213-33.F(2)(a) of the Town Code, the total area for outdoor display, sales or service shall not exceed 25% of the unused portion (i.e., the area of the lot not used for buildings, required parking spaces, aisles, access drives and any required buffer areas) of the lot; and

WHEREAS, since the proposed tables are to be located on an existing deck and porch, the site plan complies with this provision of the Code; and

WHEREAS, on October 8, 2008, pursuant to Section 213-33.F(4) of the Town Code, the Town Board referred the subject application to the Architectural Review Board (ARB) for report as to the appropriateness of the proposed type and arrangement of outdoor furnishings, the relationship to existing structures uses and other aesthetic considerations; and

WHEREAS, the Planning Board determined that the site would contain adequate parking and that additional parking would not be required to serve the use; and

WHEREAS, a duly advertised public hearing was held on said application before the Town Board on October 22, 2008 and closed on that date at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, the application for special use permit approval requires referral 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; and

WHEREAS, the referral requires “notification only” because the project proposes less than 5,000 square feet of new or renovated floor area and less than 10,000 square feet of land disturbance; and

WHEREAS, the County was duly notified of the project via e-mail; and

WHEREAS, the Town Board has requested, received and considered comments from the Town Attorney, the Consulting Town Engineer and Town Planner regarding the proposed development; and

NOW, THEREFORE, BE IT RESOLVED, that the special permit is approved, subject to the conditions identified below; and

BE IT FURTHER RESOLVED, that the special permit shall be deemed to authorize only the particular use or uses specified in the permit, and shall expire if work is not initiated within one year, or if said use or uses shall cease for more than one year for any reasons 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.

Conditions:

1. Compliance with all applicable local laws and ordinances of the Town of North Castle and any conditions attached to permits issued thereunder.
2. Prior to the issuance of the Certificate of Compliance, the Applicant shall submit a site plan depicting the existing building, property lines, sidewalk and location of the outdoor table areas to the satisfaction of the Building Inspector.
3. Prior to the issuance of the Certificate of Compliance, the Applicant shall submit a site plan, satisfactory to the Building Inspector and the Police Department depicting the details of and location of new signage directing vehicles to the rear of the property. If new signage is not possible, the Building Inspector shall note such on the Certificate of Compliance.
4. Prior to the issuance of the Certificate of Compliance, the Applicant shall submit a site plan addressing all issues identified by the ARB pursuant to their Section 213-33.F(4) review of the application regarding the appropriateness of the proposed type and arrangement of outdoor furnishings, the relationship to existing structures uses and other aesthetic considerations.
5. Where the proposed use is a seasonal activity so that such use may be temporarily discontinued for a period not to exceed 12 months and where not precluded by the Town Board, the special permit application may be renewed by application to the Town Building Inspector prior to the display of merchandise provided that the location and arrangement is the same as that approved by the Town Board. The fee for such renewal shall be \$20.
6. There shall be no substantial extension of the facilities described above without the amended Special Use Permit by the Town Board.